

# CHAPTER 6: USES PERMITTED WITH CONDITIONS

## SECTION 6.1: PURPOSE

The Town of Cornelius finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating conditions specific to their design and/or operation. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse effects to either. This Chapter specifies those requirements that must be met as indicated in the Table of Uses in Chapter 5.

Each use shall be permitted in compliance with all conditions listed for the use in this chapter.

## SECTION 6.2: USE CONDITIONS

### 6.2.1: ADULT ESTABLISHMENTS

- A. No such adult establishment shall be located less than 1,000 feet from a school, church, child care center, civic building, park, lot in residential use, lot with residential districting or other adult establishment.
- B. All openings shall have an opaque glazing to discourage visibility of the interior.
- C. The maximum floor area of each use shall be 3000 square feet.
- D. No exterior signage or building element shall be pornographic in nature or convey any such idea or element.

### 6.2.2: AUTOMATED TELLER MACHINE

- A. Freestanding ATM structures shall be visible from a public street for security reasons.
- B. Freestanding ATM's may be located within a required setback, but may be no closer than five feet (5') to any property line.
- C. Freestanding ATM structures exterior materials shall match the principal building.
- D. Freestanding ATM structures shall be reviewed by the Architectural Review Board.
- E. Drive Through only ATM's shall meet the conditions listed in this section for Drive-Through window facilities.

### 6.2.3: AUTOMOBILE, TRUCK, MOTORCYCLE, BOAT, MANUFACTURED HOME, RECREATIONAL VEHICLE (RV) SALES, RENTAL, REPAIR AND SERVICE

- A. Large surface parking lots should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to three (3) acres, unless divided by a street, principal building, or a type 'B' buffer option.
- B. Type 'C' interior plantings shall be provided in and around public parking, sales, and rental lot areas. Double stacking may be allowed within sales and rental lots on a case by case basis, provided that all other parking and screening requirements are met.
- C. All outdoor sales or display of vehicles shall be on approved improved surfaces, and shall be screened with a type 'B' buffer in accordance with Chapter 9. Outdoor display areas cannot be located in front of the principal structure and may not be located on grass, or in a buffer or landscaped area.
- D. All painting and/or external repair of damaged, wrecked, dismantled or inoperative vehicles, and all "auto body work", shall be done behind closed doors in a properly ventilated indoor area.
- E. There shall be no outdoor storage of damaged, wrecked, dismantled, or inoperative vehicles.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- F. No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.

### 6.2.4: AUTOMOBILE, RECREATIONAL VEHICLE, BOAT, AND TRACTOR TRAILER PARKING/STORAGE AS A PRINCIPAL USE

- A. Large surface parking lots should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to three (3) acres, unless divided by a street, principal building, or a type 'B' buffer option.
- B. Type 'C' Interior Plantings shall be provided in and around the parking/storage areas.
- C. A Type 'A' screening buffer is required around the perimeter of the parking/storage area.
- D. Fences visible from the street (separate of the required buffer) shall be a maximum of eight feet (8') in height, shall be decorative, and shall be made of wood, wrought iron, or similar material. Fences not visible from the street shall be a maximum of eight feet (8') in height and may be constructed of another durable material.

### 6.2.5: BAR, NIGHTCLUB

- A. Any bar or night club shall be located a minimum of three hundred (300) linear feet from any residential dwelling unit on a residentially zoned property, as well as three hundred (300) linear feet from any school or house of worship facility. A bar or nightclub within a multi-tenant development shall be three hundred (300) feet from the zones and uses noted above, as measured from the building footprint of the tenant space containing the bar or nightclub. This provision shall not apply within the TC district.
- B. Any bar or night club in the TC District with over two thousand (2,000) square feet of indoor gross space used for the business (not counting storage space or area devoted to the display and/or sale of stock in trade intended for off-premise use or consumption, nor the area devoted to the kitchen preparation area) shall have a menu of prepared food available for purchase and consumption on premise and operational kitchen on premise for the preparation thereof and equipment for the cleaning of reusable serving ware for food and beverage.
- C. Bars and night clubs shall preserve visibility into establishments from the sidewalk/street to include no tinting, painting or covering (curtains, blinds, paper, etc.) of windows. Further, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material which renders the opening functionally obsolete or to causes it to be opaque.

### 6.2.6: BED AND BREAKFAST INN

- A. Single family homes used as bed and breakfast inns shall have a minimum heated floor area of fifteen hundred (1,500) square feet.
- B. Single family homes used as bed and breakfast inns may not subdivide existing rooms into less than two hundred (200) square feet.
- C. The bed and breakfast inn shall be owner-occupied.
- D. No more than two (2) full-time employees, not including the owners.
- E. All guest parking shall be to the rear of the home. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one space per room of lodging.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- F. Bed and Breakfast Inns in the NR district are permitted only on property fronting Main Street or Catawba Avenue.

### 6.2.7: BREWERY, LARGE

- A. Outdoor storage of goods and materials used in assembly, fabrication, or processing shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.
- B. A Type 'A' screening buffer is required where a large brewery is adjacent to a residentially zoned property.

### 6.2.8: BREWERY, MICRO

- A. Production cannot exceed 15,000 barrels (~465,000 gallons) of beer per year.
- B. Shall provide a taproom, except if located in IC.
- C. Outdoor storage of goods and materials shall not be permitted in the Neighborhood Mixed Use, Town Center, Village Center Districts, or Waterfront Mixed Use.
- D. Outdoor storage of goods and materials used in assembly, fabrication, or processing in the Business Campus, Corporate Office, and Highway Commercial Districts shall be screened from view, and shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.
- E. Must not operate outside the facility between the hours of 9:00 pm and 7:00 am.
- F. A Type 'A' screening buffer is required where a microbrewery is adjacent to a residentially zoned property.

### 6.2.9: BUS STOP SHELTERS

- A. Bus stop shelters shall be visually and functionally compatible with surrounding development.
- B. Seating and protection from the weather shall be provided.
- C. A trash receptacle shall be provided.
- D. All bus stop shelters shall be consistent with CATS requirements.

### 6.2.10: CEMETERY/COLUMBARIUM

- A. Brick walls between 1.5' and 3' are permitted.
- B. Wood or wrought iron fences between 2.5' and 8' are permitted.
- C. Setbacks from all street rights-of-way and adjacent properties to a wall or grave shall be a minimum of eight feet (8').
- D. Tombstones, crypts, monuments, and mausoleums shall be located a minimum of twenty feet (20') from any side or rear lot line and at least thirty feet (30') from a street right-of-way. Greater setbacks shall be observed if otherwise required by the zoning district in which the cemetery is located. Gravesites shall be set back twenty feet (20') from the side or rear lot lines.

### 6.2.11: CHILDCARE/PRESCHOOLS

- A. Childcare and preschools shall be located on lots which provide ample outdoor play area. Play areas shall be enclosed with a fence, a minimum of twenty-five hundred (2,500) square feet, and located in the rear or side yard. Fences shall be a minimum of six feet (6') in height. Childcare and preschools located adjacent to parks are exempt from this provision.
- B. On-street parking may be used to fulfill parking requirements.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- C. All play equipment shall be located in the fenced area. Front yards shall not be used as playground areas.
- D. Decorative fencing or a vinyl coated chain link fence screened with landscaping shall be provided when the fence is visible from the street.

### 6.2.12: CIVIC USES

- A. Parking shall be located towards the interior of the lot. Parking may not occur within a front setback or corner side setback.
- B. Front setbacks may be altered to preserve views or significant trees.
- C. Civic Use development over three (3) acres shall provide ninety percent (90%) of the parking on-site.

### 6.2.13: CONVENIENCE STORE

- A. Automatic Car Washes are only allowed in the rear yard and as accessory uses.
- B. Fuel pumps shall only be in the rear yard and screened from view to the greatest extent practical.
- C. No above grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be located closer than twenty-five feet (25') to any public right-of-way and ten feet (10') to any exterior property line or within any required setback, whichever is greater. Pump island canopies shall not be located closer than ten feet (10') to a public right-of-way.
- D. Vacuuming facilities may be located outside the building, but may not be located within any required buffer area or adjacent to a residential district.
- E. Any other accessory uses such as propane tank exchange, ice coolers, newspaper boxes, etc. outside the principal structure may only be located in the rear yard.

### 6.2.14: COUNTRY CLUB

- A. A country club building shall form a central gathering place for a neighborhood.
- B. Parking shall be to the rear and/or side of the building(s).
- C. The principal building shall face the fronting street and shall not be setback a distance that inhibits pedestrian access.

### 6.2.15: CRUISE/EXCURSION/DINNER BOAT

- A. Harbor or mooring of any existing or proposed Cruise/Excursion/Dinner Boat, whether on an incidental, occasional, routine, or permanent basis shall only occur within a commercial/non-residential marina as classified under the provisions of the Duke Energy Lake Management Division Shoreline Management Guidelines.
- B. Prior to consideration by the Town, the applicant must submit an operation plan to the Lake Norman Marine Commission for recommendation. The Lake Norman Marine Commission make specific recommendation regarding safety issues associated with the operation plan, including overall safety conditions within the proposed operating area and any potentially hazardous conditions associated the use, operation, and physical configuration of the commercial/non-residential marina.
- C. The required operation plan should include proposed hours of operation; a plan or plans to scale of the marina and any other proposed ports of call denoting on-site commercial facilities to service the boat, location of proposed berth area, ingress and egress route from the berth within the marina to the main channel; and the minimum dimensions between commercial



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- slips through which the boat will pass. The plan shall denote the location(s) or area within the commercial marina dedicated as berthing areas for non-power watercraft, and personal recreational watercraft. The plan shall also include the dimensions and seating capacity of the boat.
- D. The boat must be equipped with radar, meet all Coast Guard requirements for the class, must not exceed 80 feet (80') in length; hull design for minimal wake.
  - E. The boat is excluded from operation in any marina or cove less than fifty feet (50') in length or waters less than ten feet (10') in depth.
  - F. Dockage should permit a minimum operating and turning radius of 2-1/2 times the lengths of the boat.
  - G. Pier mooring shall meet all applicable commercial code requirements. Flotation shall be a minimum of 40 lbs. per square foot of live load.
  - H. The mooring area and pier should directly access the boat. Common use of pier area serving existing residential or recreational craft or interference with private boat pier users in the marina or private pier area is not permitted.
  - I. Public restroom facilities and an adequate effluent pump-out station are required at the marina.
  - J. Adequate on-site parking at the marina facility must be provided to specifically service this use.
  - K. Hours of operation are between 9:00 a.m. and 11:00 p.m.
  - L. Any amplified sound for recreational, or entertainment is permitted only during the prescribed hours of operation. Any amplification of sound is to be directed to within the boat.
  - M. Operation outside of the marina is restricted to greater than two hundred feet (200') from shore.

### 6.2.16: DRIVE-THROUGH FACILITIES

- A. Drive-through facilities located on the side of a building, with the exception of banks, shall be limited to one-lane only, and shall be screened from off-site view with a type 'A' landscape buffer per Chapter 9. Multiple order/service lanes are only allowed in the rear yard, and limited to a maximum of two (2) for all drive through facilities, with the exception of banks. Banks may have a maximum of two lanes, whether the drive-through facility is located in the side or the rear.
- B. All menu boards, drive through service windows, or other drive-through structures must be located on the rear or side of the principal structure, shall not conflict with the primary public entrance, and must be screened from off-site view with a type 'A' landscape buffer per Chapter 9.
- C. Buildings that include drive-through facilities shall still conform to frontage build out requirements. However, the building may be setback in order to allow one drive-through exit lane in front of the principal building in order for the drive-through facility to be physically separated from other vehicular traffic and pedestrians. Drive-through exit lanes may be within the front yard area but cannot be within the street right-of-way, and must be screened from the right-of-way by a wall a minimum of three feet in (3') height. A hedgerow shall be provided between the right-of-way and the wall. The wall must contain materials that match the principal building.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- D. Buildings that contain a drive-through facility must have one primary, designated public entrance that does not conflict with the drive-through circulation. The public entrance shall be located in the front from the public sidewalk or adjacent to the public parking area.
- E. Adequate vehicle stacking for drive-through facilities shall be located outside of and physically separated from the right-of-way of any street and onsite parking, and shall not interfere with the efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way. Adequate vehicle stacking for drive-through facilities shall not be located in any front yard area.
- F. Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall conform to the lighting standards set forth in Chapter 7.
- G. Adequate vehicle stacking shall be determined by industry standard and shall be verified by the Town of Cornelius.
- H. The drive-through facility shall not have a separate ingress/egress from the main thoroughfare. If the property is on a corner lot and/or backs up to a minor street or thoroughfare, drive through ingress shall be provided from the minor street or thoroughfare.
- I. The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands and physically separated from onsite parking areas.
- J. Drive-through lanes shall be designed and placed away from pedestrian crosswalks. The site shall provide and clearly demarcate separate, safe pedestrian circulation routes.
- K. All signage for the drive-through facility including menu boards and directional signs shall be in accordance with Chapter 10 of this Code.
- L. Weather protection devices, such as canopies, shall be provided at the drive through window and at the menu boards. These canopies shall be incorporated into the building expression, and the massing and scale should be appropriate and appear as an extension of the structure.
- M. Drive-through walls shall be brick, cast concrete, stucco, stone, marble, or other materials similar in appearance and durability. Regular or decorative concrete block may be used on building walls not visible from a public street or as an accent material only.
- N. Any detached drive-through facility shall be clad in materials similar in appearance to the principal structure.
- O. Pitched roofs shall be clad in wood shingles, standing seam metal, corrugated metal, slate, diamond tab asphalt shingles, or similar material.
- P. Flat roofs shall incorporate parapet walls to conceal the flat portions of the roof that are visible on the front and side elevations from any public street.
- Q. Materials associated with the drive-through facility should be consistent with the building façade and should be an extension of the building.
- R. Any developer of a proposed drive-through facility that can establish quantitative drive-through traffic levels that require significant vehicle stacking and can demonstrate based on site characteristics that the only travel route for the additional traffic stacking is for it to wrap around the proposed structure and can provide aesthetically adequate and appropriate buffer and screening for such wrap around traffic stacking while assuring pedestrian safety, may apply for a conditional zoning review and request conditional zoning consideration for such wrap around traffic drive-through facility.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

### 6.2.17: DUPLEX

- A. Development consisting only of duplex(es) are not permitted on lots greater than three (3) acres.
- B. Duplex developments must be visually compatible with the surrounding neighborhood.
- C. Duplexes on corner lots shall be designed in a way that each unit fronts on a different street.
- D. Parking for at least one unit of a duplex shall be located in the rear yard.
- E. Each unit in the duplex must have a separate entrance and separate drive.

### 6.2.18: DWELLING, MANUFACTURED HOME, CLASS A

- A. In no instance may a manufactured home be used for a nonresidential purpose.
- B. A manufactured home must bear a seal certifying that it was built to the standards adopted on July 1, 1976 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:
- C. Materials
  - 1. The exterior siding shall consist of wood, hardboard, vinyl, brick or aluminum and shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
  - 2. The roof shall be finished with a type of shingle that is commonly used in standard residential construction.
  - 3. A continuous, permanent brick foundation or curtain wall, unpierced except for required ventilation and access, shall be installed upon a poured concrete footer after placement on the lot, and before occupancy.
- D. Configurations
  - 1. Stairs, porches, entrance platforms and other means of entrance and exit to the manufactured home shall be installed and constructed in accordance with the standards set by the NC Department of Insurance.
  - 2. The pitch of the roof of the manufactured home shall have a minimum vertical rise of four feet (4') for each twelve feet (12') of horizontal run, or the standard of each individual manufacturer's equivalent to a 4' x 12' roof pitch.
  - 3. The roof of the manufactured home shall have an overhang (eave) extending at least ten inches (10") from each vertical exterior wall. A site installed gutter may be counted in the width of the eave.
  - 4. The front facade of the building shall extend parallel to the frontage line.
- E. Techniques
  - 1. The manufactured home is set up on the site in accordance with the standards set by the NC Department of Insurance.
  - 2. The tongue, axes, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

### 6.2.19: DWELLING, MULTI-FAMILY

- A. Minimum of three (3) acre development size within NMX district.
- B. All multi-family buildings with three (3) or more stories shall contain an elevator.
- C. The ground floor of any mixed-use building shall exclusively contain retail, service or office uses.
- D. All multi-family units must be located on the second floor or above.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- E. All multi-family buildings shall have interior corridors accessed via an enclosed stairway or elevator. Primary external access to any multi-family residence shall be prohibited.
- F. In accordance with the Land Use Plan, a maximum of ten percent (10%) of the overall floor area is allowed for multi-family units in the Corporate Office zoning district.

### 6.2.20: ESSENTIAL SERVICES, CLASS 1 & 2

- A. Free-standing wireless communications towers exceeding thirty-five feet (35') in height, and electric substations require Conditional Zoning.
- B. Wireless communications towers in all districts (except HC and IC districts) may not exceed the maximum permitted height for a given district except as a component of an existing or proposed structure not intended for human occupancy (i.e. Church bell towers and steeples) or attached to existing or proposed public infrastructure such as street lights, water towers and electrical transmission towers. All such towers shall be designed using stealth design elements. Wireless communications facilities attached to existing or proposed structures such as water towers, transmission towers, church steeples, streetlights, bell towers, or similar structures do not require a Conditional Zoning.
- C. The maximum height of all wireless communications towers in the HC district and any IC District shall be one hundred-eighty feet (180'); provided, however, that the maximum height of a tower may be greater than one hundred-eighty feet (180'), but less than two hundred feet (200') when such tower is designed and constructed to accommodate the present or potential co-location of an additional wireless communications service provider or public safety communication use.
- D. Free standing wireless communications towers in HC and IC districts shall be setback a distance equal to the total height measured from grade elevation from all adjoining properties of differing designation.
- E. No wireless communications tower shall be sited within one (1) mile of another wireless communications tower, except as a component of existing public utility infrastructure.
- F. All ancillary structures shall be screened with a Type 'A' screening buffer of landscaping, wood fence or wall, or any combination thereof.
- G. All wireless communications towers in the HC and IC districts shall be constructed using a monopole design.
- H. All Essential Service facilities shall be located outside of all front and side yards and shall provide Type 'A' screening buffer around all ground facilities.

### 6.2.21: FUNERAL HOME/CREMATORY

A crematory may be located within the same structure as a funeral home. If a crematory is in a separate structure from the funeral home, the crematory must be located in the rear yard and must be screened from neighboring properties and public rights-of-way with a Type 'A' screening buffer.

### 6.2.22: GOLF, DRIVING RANGE

- A. The minimum lot depth from the tees to the end of the driving area shall be one thousand feet (1,000').
- B. Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the driving area to prevent golf balls from going onto adjacent properties. Such devices, where applicable, may be counted towards any required screening.





## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- C. Any lighting at the site shall be oriented away from adjacent residentially zoned properties and must be turned off by 9:00 PM in RP and GR, and turned off by 9:00 PM in HC when adjacent to residential uses.

### 6.2.23: HOME OCCUPATIONS

- A. Such business shall not change the character of the dwelling or constitute a nuisance for the neighborhood.
- B. No outside storage or displays associated with the home occupation is permitted.
- C. No more than twenty-five percent (25%) of the home shall be used in connection with the home occupation. The Applicant shall provide a sketch showing the floor plan and the area thereof to be utilized for the conduct of the home occupation; total floor area of the residence.
- D. A maximum of one (1) non-resident employee, contracted or otherwise hired, is permitted in the home.
- E. One company vehicle shall be permitted per home, otherwise only vehicles used primarily as passenger vehicles shall be permitted in connection with the home occupation.
- F. Signage is permitted on the vehicle.
- G. Customers may visit the business between the hours of 7 AM and 6 PM.

### 6.2.24: HOTEL, MOTEL, INN

- A. Rooms may only be accessed by interior corridors. Primary external access to any room shall be prohibited.
- B. Pools must be screened with a Type 'A' buffer.
- C. Buildings with two (2) or more stories must have an elevator.

### 6.2.25: KENNEL

- A. No outdoor containment of animals shall be located within a minimum of four hundred feet (400') from any adjacent residential or mixed use zoning district.
- B. Kennels shall be designed to effectively buffer all noise audible to surrounding properties.
- C. No more than twenty (20) animals may be allowed in an outdoor kennel at any one time.

### 6.2.26: MANUFACTURING, HEAVY

Must follow conditional zoning process if adjacent to existing residential use or existing residentially zoned properties.

### 6.2.27: MIXED USE BUILDING

- A. No outdoor sales or display is permitted in the front or side yards.
- B. New construction or additions shall be architecturally compatible with the surrounding buildings. (See Section 4.1, Elements of Architectural Compatibility.)
- C. Conditional Zoning is required when the total number of residential units exceed eight (8) units.
- D. The ground floor of any mixed-use building shall exclusively contain retail, service, or office uses.
- E. All multi-family units must be located on the second floor or above.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

### 6.2.28: OUTDOOR SALES/DISPLAY

- A. All outdoor sales or display of products (including automobile and boat sales) shall be setback twenty feet (20') from the front property lines and may not be located on any grass, landscape area, or in any buffer area.
- B. A Type 'B' screening buffer shall be provided around the perimeter of all outdoor sales areas.

### 6.2.29: PARK AND RIDE FACILITY

- A. Public Transit Park and Ride Facilities shall adhere to the standards of Chapter 7: Streets, Parking and Lighting with the exception of Section 7.4(A), 7.4(B), and 7.4(C). Screening and buffering of the parking lot from the public street shall be shown on the site plan, and approved by the Planning Director
- B. Public Transit Park and Ride Facilities shall adhere to the standards of Chapter 9: Environmental Protection.
- C. Transit shelters associated with park and ride facilities shall meet the standards of Chapter 4: Architectural Guidelines.
- D. Transit shelters may be located within any street right-of-way or within an established yard fronting a street, but not be located so as to obstruct the sight distance triangle. A transit shelter located within the street right-of-way may be removed by the Town of Cornelius if the Town Board determines that it no longer serves in the public's best interest.
- E. Only government signs are permitted within a transit shelter.
- F. Large surface parking lots should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to three acres, unless divided by a street, principal building or thirty foot (30') green buffer area.
- G. Internal sidewalks and pedestrian access shall be provided in a safe and accommodating manner in accordance with standards set forth in Chapter 7 and Chapter 13.

### 6.2.30: PARKING AREA AND/OR FACILITY

- A. Any parking facility or structure must have pedestrian orientation, design, and access.
- B. Parking facilities must have an edifice with similar architecture and materials of the district with a parapet or similar feature concealing the top floor of vehicles and be reviewed by the Architectural Review Board.
- C. The perimeter of a parking area must be screened by a Type 'B' buffer.

### 6.2.31: PRIVATE CLUB

- A. Any private club establishment shall be located a minimum of three hundred (300) linear feet from any residential dwelling unit on a residentially zoned property, as well as three hundred (300) linear feet from any school or house of worship facility. A private club within a multi-tenant development shall be three hundred feet (300') from the zones and uses noted above, as measured from the building footprint of the tenant space containing the private club. This provision shall not apply within the TC district.
- B. Private clubs shall preserve visibility into establishments from the sidewalk/street to include no tinting, painting or covering (curtains, blinds, paper, etc.) of windows. Further, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material so as to render the opening functionally obsolete or to cause it to be opaque.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

### 6.2.32: RECREATION FACILITIES

- A. All recreation facilities shall be treated as parks in design and landscaping. All structures associated with a recreational facility shall be located toward the perimeter of the lot.
- B. Recreation facilities are encouraged to be built adjoining school campuses, parks, greenbelts, parkways, greenways, or waterfronts.
- C. Parking shall be located behind structures or along the perimeter of the lot and shall be in accordance with Section 7.3 Off-Street Parking Area Design Specifications.
- D. All outdoor swimming facilities shall be located at least one hundred feet (100') from any adjoining residentially zoned lot.
- E. All other outdoor recreational uses must be located at least twenty feet (20') from any side or rear lot line, and fifty feet (50') from any side or rear lot line adjacent to a residential zoning district.
- F. Regular hours of operation may be between 8:00 AM and 10:00 PM if located in or adjacent to a residential district.
- G. Lights shall be turned off after regular hours of operation. Illumination of sporting events shall be permitted after this time only to conclude a scheduled event that was unable to be completed before this time due to unusual circumstances.

### 6.2.33: RENTAL COTTAGE

- A. Minimum floor area shall be four hundred-eighty (480) square feet.
- B. The principal building shall be owner-occupied.

### 6.2.34: RESIDENTIAL CARE FACILITY (More than 6 residents)

- A. Any institutional facility that provides residential care for more than six (6) persons or a home that does not meet all requirements for a Residential Care Home is considered a Residential Care Facility and may only be located in RP, GR, NR, and NMX zoning districts.
- B. A residential care facility must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.

### 6.2.35: RESIDENTIAL CARE HOME (6 or less residents)

In accordance with NC General Statute Chapters 122C, 131D, and 168.

This section applies to adult care homes, child or adolescent care homes, family care homes, group homes, halfway houses, and mental health care homes. These uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

- A. No more than six (6) residents other than the homeowner and the homeowner's immediate family are permitted to live in a residential care home.
- B. A residential care home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.
- C. No residential care home may be located within a one-half (1/2) mile radius of any other residential care home.
- D. No exterior signage is permitted.
- E. No lockdown, violent, and dangerous residents.
- F. Only incidental and occasional medical care may be provided.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

### 6.2.36: RESTAURANT/BREW PUB

- A. No outdoor amplified sound will be permitted after 11 PM.
- B. Forty percent (40%) or more of the beer produced on site is to be sold on site.
- C. Minimum size of associated restaurant shall be twenty percent (20%) of the gross floor area, or fifteen hundred (1,500) square feet, whichever is less.
- D. Cannot exceed five thousand (5,000) square feet in Neighborhood Mixed Use, Village Center and Town Center Districts.
- E. A Type 'A' screening buffer is required where a restaurant/brewpub is adjacent to a residentially zoned property.

### 6.2.37: SCHOOLS

- A. Parking shall be located towards the interior of the lot. Parking may not occur within a front setback or corner side setback.
- B. Front setbacks may be altered to preserve views or significant trees.
- C. School sites over three (3) acres shall provide ninety percent (90%) of the parking on-site.

### 6.2.38: SMALL WIRELESS FACILITY

- A. All Small Wireless Facilities located on single-family residential lots must follow the requirements of Section 16.7, Special Use Permits, unless located within a public right-of-way. If placed within a public right-of-way a utility right-of-way encroachment agreement must be obtained from the Town. On private property, an agreement properly approved by the private property owner authorizing the use is required. Copies of all approvals must be provided to the Town.
- B. The maximum height of each new, modified, or replacement utility pole shall not exceed 50' above ground level. Each new small wireless facility shall not extend more than 10' above the pole on which it is located.
- C. Documentation including engineered plans, photographic renderings, GIS mapping and all other pertinent requirements of Chapter 13 are required to be submitted at time of application.
- D. All ground mounted components of the Small Wireless Facility shall be screened with a Type A buffer.
- E. Must comply with Section 4.2.4, Building Design-Small Wireless Facilities.

### 6.2.39: STORAGE, OUTDOOR

#### Residential Properties/ Uses:

The storage of goods or products as an ancillary use. The goods or products shall be stored in the side or rear yard and screened with an opaque fence, a tarp/cover, or within a shed or building.

- Vehicles: With the exception of junked vehicles as allowed in Section 90.18 of the Code of Ordinances, if not parked on an improved driveway, vehicles shall be stored in the side or rear yard. Vehicles that are not parked on an improved driveway for a party or special event are exempt.
- Recreational vehicles (which includes motorhomes, towables/5th wheels, and folding/tent campers) and trailers (excluding boat trailers discussed below): If not parked on an improved driveway, recreational vehicles and/or trailers shall be stored



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

in the side or rear yard. A limit of one recreational vehicle or trailer per property is allowed to be parked on an improved driveway in the front yard.

- Boats/vessels/personal watercraft: If not parked on an improved driveway, boats/vessels/personal watercraft shall be stored in the side or rear yard. Boats/vessels/personal watercraft stored in the front yard must be on an appropriate trailer parked on an improved driveway. A limit of two (2) trailers for boat/vessel/personal watercraft are allowed in the front yard. Each boat/vessel shall not exceed twenty-six feet (26') in length by the manufacturer's published overall length. In addition, each trailer's load may not exceed 6,500 pounds by the manufacture's published dry weight.

### Commercial Properties/ Uses:

Goods or products shall be stored in the rear yard and screened with an opaque fence or masonry fence/wall that shall match or complement the appearance of the principal structure. In addition, the storage area shall be screened with a type "A" buffer.

### **6.2.40: SUBDIVISION, CONSERVATION**

- A. Purpose and Findings: The purpose of this section is to provide flexibility in site design to allow developers to preserve common open space and natural resources. The specific purposes of this section are to:
1. Protect the public health, safety, and general welfare by avoiding surface and groundwater pollution, contaminated run-off, air quality contamination, and urban heat islands that result from pavement and the clearing of natural vegetation
  2. Protect and preserve natural resources, such as wetlands, streams, lakes, steep slopes (18% or greater), woodlands, and water recharge areas
  3. Reduce infrastructure and housing costs by reducing the engineering and construction costs produced by conventional subdivision design, which requires more pavement, wetland crossings, grading of trees and natural areas, and maintenance from lawn and landscaping maintenance
  4. Protect property values by allowing open space design features that enhance the marketability of development
  5. Provide design flexibility
  6. Promote development on soils that are most suitable for urban densities while preserving soils that are primarily adaptable to other uses, such as woodlands, wildlife habitat, and agriculture.
- B. Applicability: Three types of conservation subdivisions are hereby established in the RP zoning district as follows:
1. Conservation Subdivision Rural: up to a maximum of 0.33 dwelling units per acre (1 unit per 3 acres) – conditional zoning (CZ) required
  2. Conservation Subdivision Low: up to a maximum of 2 dwelling units per acre (1 unit per 0.5 acres) – conditional zoning (CZ) required
  3. Conservation Subdivision Medium: up to a maximum of 4 dwelling units per acre (1 unit per 0.25 acres) – conditional zoning (CZ) required
- C. Size and Location of Site: The total site area must be a minimum of ten (10) acres.
- D. Lot & Block Design Standards



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

1. Individual lots within a conservation subdivision are not subject to the lot size, lot width, frontage, or setback requirements of the underlying zoning district, as long as the overall density of the subdivision is consistent with the adopted land use plan
  2. In no instance should the rear elevation of any home be visible from the frontage road.
- E. Allocation of Open Space and Conservation Areas
1. In order to be considered for maximum density for a proposed development, a minimum percentage of the total tract area to be subdivided shall be set aside as open space as follows:
    - a) Conservation Subdivision Rural = 60%
    - b) Conservation Subdivision Low = 50%
    - c) Conservation Subdivision Medium = 40%
  2. A percentage of the total open space required in Section A must be improved in either a passive or active manner. Areas labeled undisturbed may still include improved passive types of open space such as trails, open meadows, etc. as long as they are accessible. Types of improved open space are further defined in Chapter 8: Open Space. The following percentages of improved open space are provided:
    - a) Conservation Subdivision Rural = 15% of the total required open space
    - b) Conservation Subdivision Low = 20% of the total required open space
    - c) Conservation Subdivision Medium = 25% of the total required open space
  3. The following setback and buffer requirements apply for conservation subdivisions:
    - a) No portion of any proposed building lot shall be located closer than one hundred feet (100') from the right-of-way of Bailey Road, Barnhardt Road or Mayes Road.
    - b) A buffer shall be provided around the perimeter property line for a minimum of fifty feet (50') when adjacent to an existing residential development. If there is no adjoining residential development, or if the adjoining residential development has an existing perimeter buffer, the fifty foot (50') buffer may be reduced in order to achieve an open space corridor of no less than fifty feet (50') total, and shall in no instance be less than twenty-five feet (25'). This buffer requirement supersedes the buffer requirements specified in Chapter 9 of this Code.
    - c) All setbacks and buffers must be within designated open space and cannot be part of individual lots via a private landscape easement.
    - d) Setbacks and buffers shall provide supplemental plantings when necessary in order to achieve type 'A' screening buffer in accordance with Chapter 9.
  4. Each subdivision shall contain, as its central focus, at least one square or park that shall be a minimum size equal to five percent (5%) of the subdivision total acreage. The central park can be either passive or active as long as it is accessible.
  5. No lot shall be further than eight hundred feet (800') from any improved open space.
  6. In accordance with Chapter 9, an environmental survey is required to be submitted along with the proposed sketch plan. The environmental survey shall include details on topography, existing woodland areas, wetlands/existing water features, floodplains, and trees greater than eighteen inches (18") in diameter.
  7. A sketch plan shall be submitted that identifies all potential open space areas.
  8. The sketch plan and the environmental survey shall be reviewed with staff prior to the submission of a development review application.
  9. Required open space may not be provided within the boundary of any proposed building lot.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- F. Other General Requirements for Conservation Subdivisions:
1. Street cross sections are not required to utilize curb and gutter, with the exception of alleys, which shall provide curb and gutter.
  2. Connectivity shall be provided to adjoining properties, but may be waived after review of designated environmental areas that may need to remain undisturbed.
  3. Streets shall not cross wetlands or existing slopes exceeding twenty-five percent (25%) unless no practical alternative exists.
  4. The conservation subdivision shall include a pedestrian circulation system featuring sidewalks, trails, greenways, or a combination thereof. Connections shall be provided to adjoining undeveloped parcels, or to existing parks and open space on adjoining developed parcels.
  5. No conservation area shall be cleared, graded, filled, or subject to construction. However, rights-of-way for trails, greenways, any streets needed to provide access to the proposed subdivision, or basic utilities (water, sewer, electric, cable, etc.) may be cleared, but should be reviewed during the sketch plan process to ensure that they are placed to minimize disturbance of the most critical areas.

### 6.2.41: SUBDIVISION, FAMILY

- A. Family subdivisions of land are permitted in the RP district on tracts of land no less than two (2) acres in size.
- B. No more than three (3) lots shall be created.
- C. At least one (1) lot must meet the minimum frontage requirements of the district providing street frontage exists.
- D. All family lots are to be accessed via a single, common private residential drive.

### 6.2.42: SUBDIVISION, FARMHOUSE CLUSTER

- A. Maximum number of lots/home sites: ten (10)
- B. The average lot size (including dedicated open space) shall be three (3) acres.
- C. The homes shall be served by a recorded easement at least twenty-four feet (24') in width. The road may be paved or left graveled and shall be privately maintained.
- D. Setbacks for the farmhouse cluster shall be set during the sketch plan review phase.
- E. Rural Heritage features to be preserved include:
  1. groves of mature trees
  2. cultivated fields
  3. pastures
  4. rolling hills
  5. hedgerows
  6. bridges
  7. farm buildings
  8. rock outcroppings
  9. woodlands
  10. fence lines
  11. curves in rural road
- F. The location of building sites shall be determined through a site analysis that identifies rural heritage features.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- G. Required open space shall be irrevocable. Open space shall be held in individual ownership or shall be dedicated to a homeowner's association, a non-profit land conservancy or trust, Mecklenburg County, or to the Town of Cornelius (with approval of the Board of Commissioners).
- H. Permitted uses of dedicated open space shall correspond generally to physical conditions at the time of subdivision approval. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pasture lands, crop cultivation) or recreational uses which preserve the view from public streets of rural heritage features to be preserved. For example, fields or pasture lands preserved as dedicated open space may continue to support cultivation or grazing; however existing woodlands may not be clear-cut.

### 6.2.43: TAPROOM

- A. Must be an ancillary use to the production of beer at a brewery, microbrewery or restaurant/brewpub.
- B. Only the beer produced on site may be purchased and/or consumed.

### 6.2.44: TEMPORARY USES

- Christmas Tree Sales, Produce Stands, and similar temporary retail sales are permitted as temporary uses.
- Truck trailers and flat beds are not permitted except for short-term delivery services.
- Temporary uses utilizing a tent or similar canopy shall secure approval from the Mecklenburg County Fire Marshall's office prior to zoning approval.
- Temporary uses shall be permitted for a maximum of forty-five (45) days. An extension may be granted for an additional seven (7) days upon application to the Planning Department.
- Produce Stands may be permitted for a maximum of six (6) months but may be re-permitted upon submission of a new application.
- Temporary uses shall present proof of property owner approval prior to the issuance of a permit.

### 6.2.45: TRANSIENT OCCUPANCY

Transient Occupancy Permit is required for each residence used for transient occupancy.

- A. Each individual Transient Occupancy in existence on the adoption date of this section, shall be subject to obtaining a permit and shall comply with all standards set forth in this section within sixty (60) days of the effective date specified above including, but not limited to filing the required Permit application.
- B. Transient Occupancy shall not exceed one individual tenancy within a seven consecutive calendar day period whether the residence is occupied or not.
- C. A Transient Occupancy shall only be used for that purpose during the occupancy. No other use (i.e. home occupation, temporary event) shall be permitted in the Transient Occupancy.
- D. The Transient Occupancy shall not change the residential character of the dwelling or constitute or create a public nuisance as defined within the Code of Ordinances.
- E. Exterior signage related to the Transient Occupancy shall not be permitted on any Transient Occupancy.
- F. All Transient Occupancy parking shall occur in the garage, driveway, or designated parking space. There should be no more than two (2) cars per bedroom on premise at any time.





## CHAPTER 6: USES PERMITTED WITH CONDITIONS

- G. Trash containers shall be maintained in the side or rear yard and shall be screened from street view. The Owner/Operator of the Transient Occupancy shall ensure that trash pickup occurs at least once a week at the residence and as otherwise needed for additional trash.
- H. Transient Occupancy units shall not have more than a total number of persons calculated by three (3) persons per bedroom on the premises at a time.
- I. All Owner/Operators of Transient Occupancy shall designate a local contact person who shall be available twenty-four (24) hours a day to respond to occupants, neighbor and Town concerns or complaints.
- J. The Transient Occupancy Permit may not be transferred from one Owner to another or one Transient Occupancy residence to another.
- K. Owners/Operators of Transient Occupancies shall make all reasonable efforts to minimize outside noise after 10 PM. Further, all occupants of Transient Occupancy dwelling shall comply with Section 92.25 Noise of the Town of Cornelius, Code of Ordinances.
- L. Evacuation Plan shall be posted on site to ensure safety of the occupants. The Office of the Mecklenburg County Fire Marshall shall have input in developing the Evacuation Plan.
- M. Each dwelling shall be required to post maximum occupancy as determined by the Office of the Mecklenburg County Fire Marshall and should be adhered to at all times.
- N. Fines for Violation of this section of the Ordinance shall be as follows:
  - 1. 1st Offense: Warning
  - 2. 2nd Offense: \$200
  - 3. 3rd and all subsequent: \$500
- O. All requirements of this section of the Ordinance shall be posted at all times on the premise of the Transient Occupancy dwelling.
- P. Planning Director, at their discretion, may terminate or not renew a Transient Occupancy permit if it is deemed to be in violation of this Ordinance or determined to negatively affect the adjoining neighbors. Appeals to the Planning Director's permit revocation will be heard by the Cornelius Board of Adjustment in accordance with the provisions of Chapter 16 of this Code.
- Q. A copy of monthly financial reports shall be submitted by each Transit Occupancy Permit holder to the Town each month that detail revenue collected and occupancy tax submitted to Mecklenburg County.
- R. No special events permits shall be permitted or allowed at dwellings that have an active Transient Occupancy permit.

### 6.2.46: WATER RELATED STRUCTURES

- A. Any structure for which the use requires access to or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, marine railways, piers, floats and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water related structures.
- B. All water-related structures shall be approved by Duke Energy Lake Management prior to any construction.
- C. Residential piers/docks are only permitted on lots with a habitable single family structure or a building permit has been issued for construction of a single family structure.



## CHAPTER 6: USES PERMITTED WITH CONDITIONS

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