

UDO-CC35

AN ORDINANCE AMENDING MISCELLANEOUS SECTIONS IN CHAPTERS 3, 4, 5, 6, 7, 8, AND 9 OF THE UNIFIED DEVELOPMENT ORDINANCES (UDO) TO PROVIDE MINOR, NON-SUBSTANTIVE CHANGES, CORRECTIONS, AND CLARIFICATIONS

Be it ordained by the _____, that the Unified Development Ordinances are amended as follows:

Section 1. Section 3.2.16 of the UDO is amended as follows:

3 PROCEDURES

3.2 SPECIFIC DEVELOPMENT APPLICATIONS

3.2.16 VARIANCE

J. VARIANCE FROM THE WATERSHED PROTECTION STANDARDS

4. CONSIDERATION OF VARIANCE APPLICATION

b. FINDINGS

The Watershed Review Board shall approve of a variance only where the Watershed Review Board makes an affirmative finding as follows:

- i. That the approval of the variance will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
- ii. That the use of the property otherwise meets all required conditions and specifications;
- iii. That the approval of the variance will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
- iv. That the location and character of the use, if developed according to the variance, will otherwise be in harmony with the area in which it is to be located and in general conformity with Forward 2045.

Section 2. Sections 4.9.7 of the UDO is amended as follows:

4 ZONING DISTRICTS

4.9 OVERLAY AND SPECIAL PURPOSE DISTRICTS

4.9.7 MLKO Martin Luther King Overlay District (W)

B. APPLICABILITY

1. The standards of this section shall apply to the following situations within the MLKO District boundaries following adoption of this Ordinance:

- a. New construction;
- b. Additions to existing structures in that such additions shall not create a greater level of nonconformity with the provisions of **Section 4.9.7D, District Requirements**, than currently exists on the site;
- c. Reconstruction or renovation of existing structures which is equal or greater than seventy-five percent (75%) of tax value of the existing structure; and

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B. INDOOR SPACE INTERIOR FLOOR AREA

~~At least forty five (45) square feet of inside space shall be provided for each child (based on permitted capacity).~~ Adequate interior floor area shall be provided to meet any applicable State, county, and local requirements for licensing and operation.

5.2.19 CHILD DAY CARE CENTER

B. CONDITIONS

Child day care centers must meet the following conditions in all districts when operated as a principal or an accessory use:

1. INDOOR SPACE INTERIOR FLOOR AREA

~~At least twenty five (25) square feet of inside space shall be provided for each child enrolled.~~ Adequate interior floor area shall be provided to meet any applicable State, county, and local requirements for licensing and operation.

2. OUTDOOR SPACE PLAY AREA

a. ~~Outdoor play area of one hundred (100) square feet for each child enrolled, with four thousand (4,000) square feet minimum, shall be provided, except that in the CB, CB-S, PB, and PB-S Districts the outdoor play area requirements shall be the same as that required by the North Carolina Day Care Licensing Bureau.~~ Adequate outdoor play area shall be provided to meet any applicable State, county, and local requirements for licensing and operation.

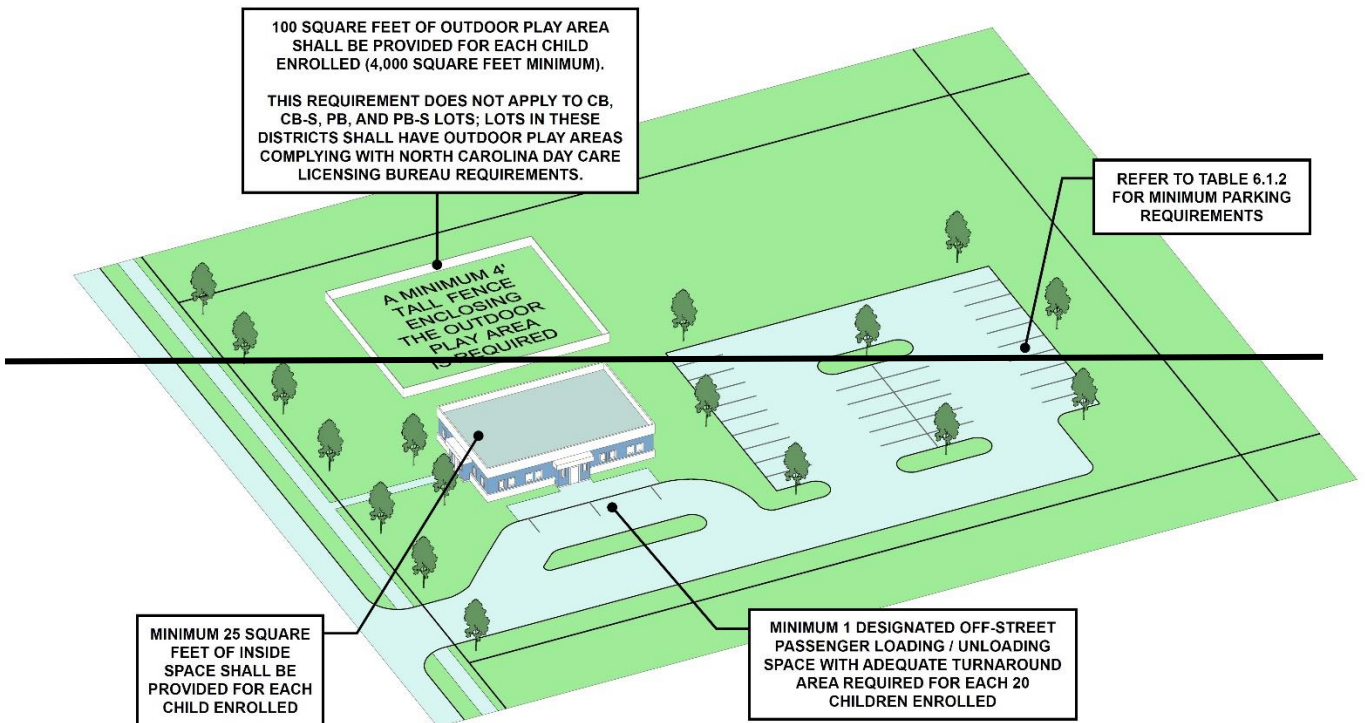
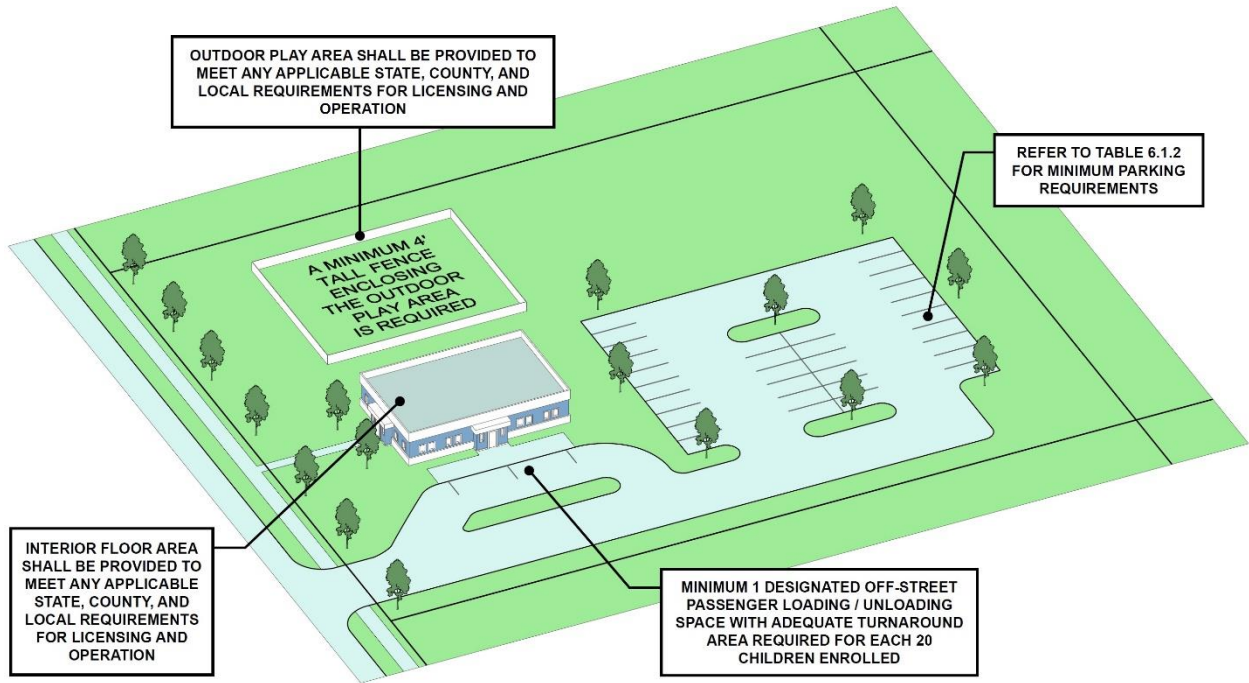
b. Such outdoor play area shall be enclosed by a minimum four (4) foot tall fence.

c. Outdoor activities are limited to the fenced area between 8:00 a.m. and 10:00 p.m.

FIGURE 5.2.19.B – CERTAIN ADDITIONAL CONDITIONS FOR CHILD DAY CARE CENTERS



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5.2.20 CHILD DAY CARE HOME

C. INDOOR SPACE ~~INTERIOR FLOOR AREA~~

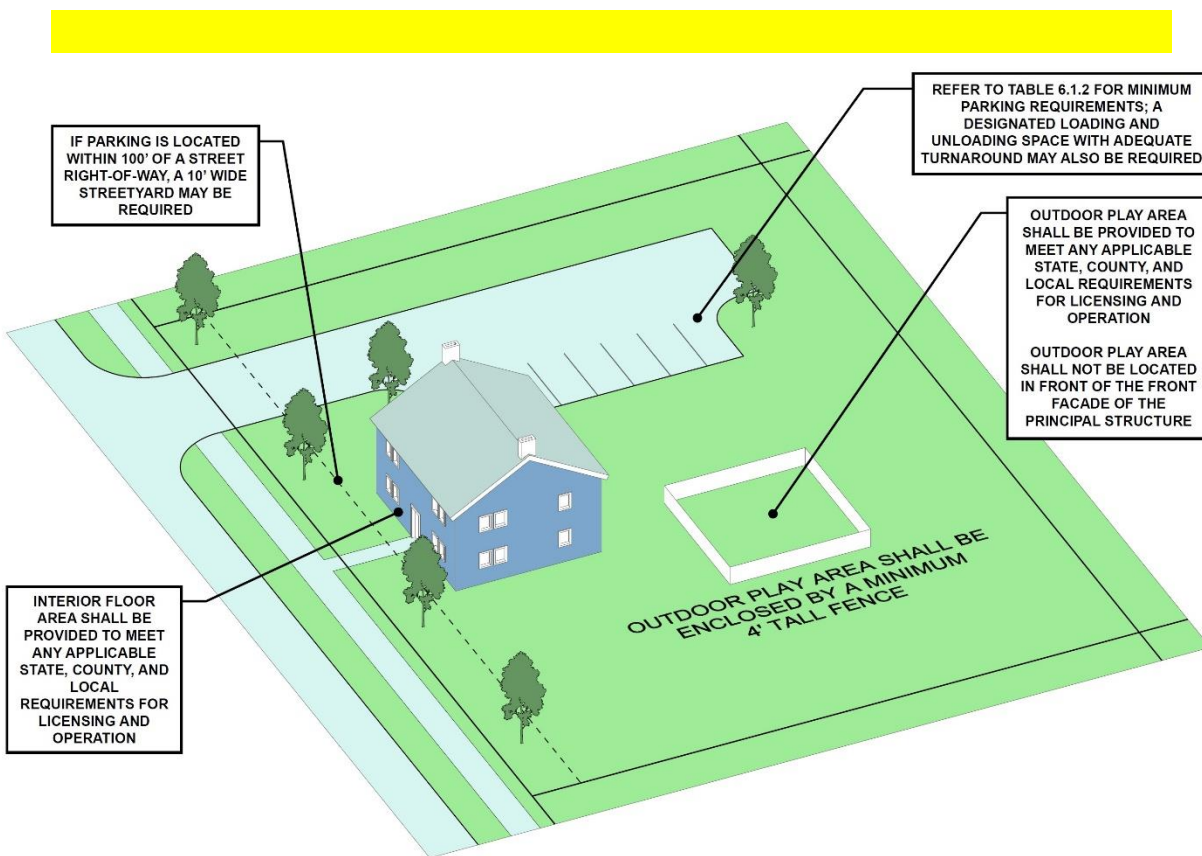
At least twenty-five (25) square feet of heated inside space shall be provided for each child (based on licensed capacity), or space sufficient to meet State standards shall be provided, whichever is greater.

Adequate interior floor area shall be provided to meet any applicable State, county, and local requirements for licensing and operation.

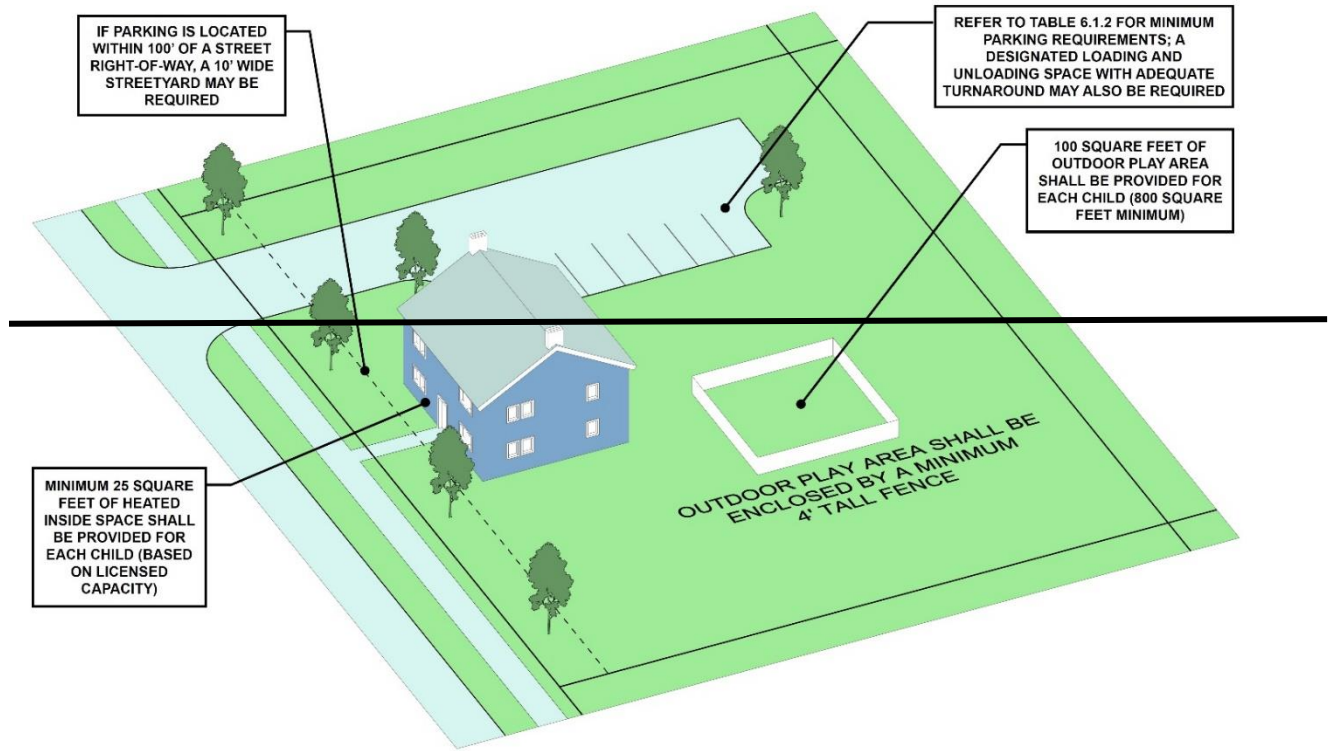
D. OUTDOOR SPACE **PLAY AREA**

1. Outdoor play area of one hundred (100) square feet minimum for each child receiving care at one time, with an eight hundred (800) square foot minimum (regardless of the number of children receiving care at one time), shall be provided. **Adequate outdoor play area shall be provided to meet any applicable State, county, and local requirements for licensing and operation.**
2. Such outdoor play area shall be enclosed by a minimum four (4) foot tall fence.
3. Such outdoor play area shall not be located in front of the front façade of the principal structure.
4. Outdoor activities shall be limited to the fenced area between 8:00 a.m. and 8:00 p.m.

FIGURE 5.2.20 – CERTAIN REQUIREMENTS FOR CHILD DAY CARE HOME USES



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Section 6. Sections 5.2.44 of the UDO is amended as follows:

5.2 USE-SPECIFIC STANDARDS

5.2.44 LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID)

E. PERMIT DURATION AND RENEWALS

1. Any land clearing and inert debris landfills which received approval from the State of North Carolina Department of Environmental Quality (DEQ) and were established prior to December 31, 1994, and for which a valid State permit has been continuously maintained shall not be required to obtain a special use permit from the Board of Adjustment.
2. All other land clearing and inert debris landfills must obtain either a special use permit from the Board of Adjustment or a Planning Board Review whichever is required in the zoning district in which the LCID is located.
3. Said permit shall be valid for a maximum of three (3) years, after which time renewals may be granted for up to three (3) years at a time until the operator of the facility files a notice of intent to permanently discontinue the LCID with Planning and Development Services.

Section 7. Sections 5.2.50 and 5.2.52 of the UDO are amended as follows:

5.2 USE-SPECIFIC STANDARDS

5.2.50 MANUFACTURED HOME, CLASS B OR CLASS C (F)

E. FARM TENANT HOUSING

A class C manufactured home is allowed for use as farm tenant housing on bona fide farms subject to the issuance of a special use permit from the Board of Adjustment.

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5.2.52 MANUFACTURED HOME, CLASS C (W)

~~E. FARM TENANT HOUSING (F)~~

~~A class C manufactured home is allowed for use as farm tenant housing on bona fide farms subject to the issuance of a special use permit from the Board of Adjustment.~~

Section 8. Section 5.2.68 of the UDO is amended as follows:

5.2 USE-SPECIFIC STANDARDS

5.2.68 RECREATIONAL VEHICLE PARK

B. GENERAL USE CONDITIONS

8. ACCESSORY USES

a. Management offices, recreational facilities, toilets, showers, dumping stations, coin-operated laundry facilities, and other uses and structures incidental to the operation of a recreational vehicle park are permitted as accessory uses to the park.

b. In addition, other uses may be permitted as accessory uses in the district where such uses are not allowed as principal uses, subject to the following restrictions:

~~c. SIZE~~

i. Such establishments and the parking areas related to their operations shall not occupy more than five percent (5%) of the gross area of the park.

~~d. CLIENTELE~~

ii. Such establishments shall be restricted in their use to the occupants of the park.

~~e. VISIBILITY~~

iii. Such establishments shall present no visible evidence from any street outside the park of a commercial nature which would attract customers other than occupants of the park.

~~f. ACCESS~~

iv. Such establishments shall not be directly accessible from any public street, but shall be accessible only from a street within the park.

Section 9. Section 5.2.76 of the UDO is amended as follows:

5.2 USE-SPECIFIC STANDARDS

5.2.76 SCHOOL, PUBLIC

E. EXEMPTIONS

Exempted from Planning Board or Board of Adjustment review are the following improvements or buildings on Winston-Salem/Forsyth County School campuses, provided the Director of Inspections consult with the Director of Planning prior to the issuance of any permits for these improvements or buildings:

7. MOBILE SCHOOL UNIT (W)

a. *A mobile school unit is exempt from a Planning Board or Board of Adjustment Review provided that the mobile school unit meets the following design considerations or the location has previously been approved by the Planning Board.*

b. *If unable to meet these provisions, the mobile school unit must be approved by a special use permit issued by the Board of Adjustment.*

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c. The Board of Adjustment may adjust or waive the specified requirements based on site circumstances, such as:

- i. Existing buildings and development of the school campus or on adjoining property;
- ii. Existing utilities; or
- iii. Natural features, like topography or wooded areas. ~~The requirements are as follows:~~

d. The requirements are as follows:

iv.i. SETBACKS

A mobile school unit shall be setback no less than forty (40) feet from all property lines and shall be located no closer to the surrounding public street(s) than the principal school structure.

v.ii. BUFFERING

Either the bufferyard specified in **Section 6.3.2, Determination of Bufferyard** shall be installed or the provision of **Section 6.3.2E, Conflicting Bufferyard Requirements**, met through the approval of a landscaping plan for the school, public site.

vi.iii. LANDSCAPING

At a minimum, there shall be one large variety tree planted on the campus for each mobile school unit approved. The tree(s) shall be located within one hundred fifty (150) feet of the mobile school unit(s) or the principal school structure and be planted with a minimum on-center spacing of thirty (30) feet and a maximum on-center spacing of fifty (50) feet.

vii.iv. ACCESSIBILITY AND SAFETY

- 1. A hard-surfaced, accessible route with a minimum width of five (5) feet shall be provided between the principal school structure and the mobile school unit(s).
- 2. Further, a striped pedestrian crosswalk shall be provided where this accessible route crosses parking and drive aisles.

viii.v. OTHER

All other standards of this Ordinance shall be met.

Section 10. Section 5.2.89 of the UDO is amended as follows:

5.2 USE-SPECIFIC STANDARDS

5.2.89 STORAGE SERVICES, RETAIL

The following conditions apply to storage services, retail:

B. STORAGE SERVICES, RETAIL – INTERNAL ACCESS:

- 3. Facades greater than seventy-five (75) feet in linear length shall be articulated with recesses or projections of no less than five (5) feet in linear length, which total at least twenty-five percent (25%) of that façade's length. No uninterrupted length of any facade shall exceed seventy-five (75) horizontal feet.

Section 11. Section 5.3.4 of the UDO is amended as follows:

5.3 ACCESSORY USES AND STRUCTURES

5.3.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

The following uses may only exist or be developed as accessory uses to a principal use, as provided below.

A. ABOVE GROUND STORAGE TANKS

1. SETBACKS

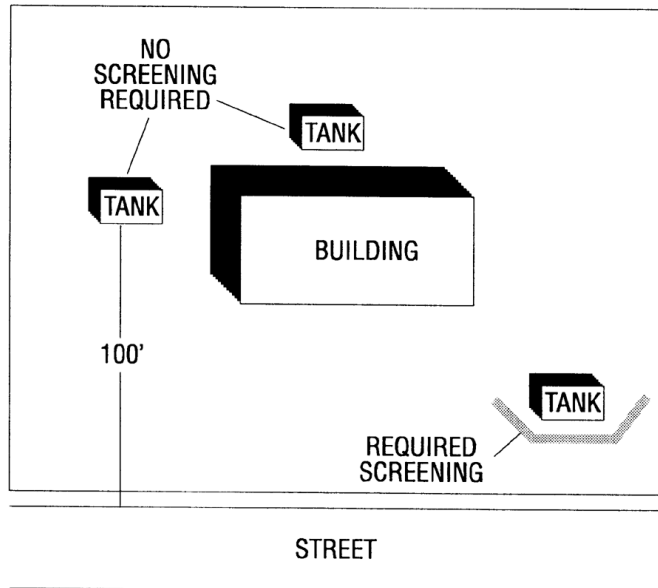
- ~~2.a.~~ Above ground storage tanks shall meet all building setback requirements of the zoning

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district, except storage tanks located on existing sites of institutional or utility uses where existing below ground storage tanks are being replaced by above ground storage tanks or above ground storage tanks with a storage capacity of five hundred (500) gallons or less located in residential zoning districts.

- 3.b.** Regardless of zoning setbacks, additional setbacks may be required by Fire Codes.

FIGURE 5.3.4: STORAGE TANK SETBACKS



4.2. DEVELOPMENT STANDARDS

Above ground storage tanks which are accessory to offices, businesses, industries, or on sites of institution or utility uses and which are located within one hundred (100) feet of any public right-of-way and not screened by a building from the street or not located within ten (10) feet of a principal building, shall meet the following standards:

- a. The tank shall be partially or totally screened from view from the public right-of-way.
- b. Said screening may consist of landscaping, planted earthen berms, natural topographic features, or a combination thereof.
- c. Landscaping shall consist of any shrubs identified in the streetyard and interior shrubs suggested plant materials plant list in **Section 6.2.1J**, or **Section 6.2.2J**, as appropriate.
- d. Said shrubs shall be spaced no more than eighteen (18) inches, edge to edge.
- e. No more than thirty percent (30%) of shrubs shall be deciduous.
- f. Said screening shall be planted a minimum of five (5) feet from the tank and be installed along the entire length of the tank.
- g. Said screening shall be maintained as long as the tank is present.
- h. For tanks storing flammable, combustible, hazardous, or toxic materials, screening shall not interfere with Fire Department operations, and NFPA. 704 I.D. placards shall be installed as required by the Fire Official.

5.3. SIGNAGE

No signs or advertising shall be permitted on the tank or screening, except identification signs or labels as required by State law.

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6.4. HAZARDOUS MATERIAL

Above ground storage tanks containing hazardous or toxic materials are not permitted in RS and RM Districts.

7.5. TANKS WITH CAPACITY GREATER THAN ONE THOUSAND (1,000) GALLONS

Tanks with individual storage capacity greater than one thousand (1,000) gallons are permitted only in office, business, industrial or Campus zoning districts, or on sites of institution or utility uses.

8.6. STORAGE OF MOTOR VEHICLE FUEL, CLASS 1 IN RESIDENTIAL DISTRICTS

The storage of more than twenty-five (25) gallons of motor vehicles fuel, class 1, as an accessory use on any zoning lot in a residential district shall not be permitted, except on a bona fide farm.

9.7. STORAGE TANKS IN RESIDENTIAL ZONING DISTRICTS

No above ground storage tanks with a capacity of more than five hundred (500) gallons shall be located in a residential zoning district except for institutional or utility uses.

Section 12. Section 6.1.5 of the UDO is amended as follows:

6 DEVELOPMENT STANDARDS

6.1 OFF-STREET PARKING AND LOADING

6.1.5 ALTERNATIVE PARKING AND PARKING INCENTIVES

H. PARKING REDUCTION FOR REQUIRED LANDSCAPING IN MOTOR VEHICLE USE AREAS

1. For all uses, a five percent (5%) reduction of the total number of required parking spaces is permitted where an area which would otherwise be devoted to parking cannot be used in order to preserve an existing tree with a diameter of six (6) inches or greater.
2. Additionally, for each large variety tree planted in accordance with the provisions of **Section 6.2.1D, Motor Vehicle Surface Area Landscaping Standards**, or **Section 6.2.2C, Motor Vehicle Surface Area Landscaping Standards**, as appropriate, and located completely within a motor vehicle use area the amount of required parking is reduced by four (4) spaces. **In no case shall the number of reduced parking spaces exceed ten percent (10%) of the required parking.**
- ~~3. For all uses, the property owner may reduce the number of required parking spaces for the installation of required interior planting areas up to a maximum of ten percent (10%).~~
- ~~4. Up to an additional five percent (5%) reduction is permitted where an area which would otherwise be devoted to parking cannot be used in order to preserve an existing tree with a diameter of six (6) inches or greater.~~

Section 13. Section 6.4.3 of the UDO is amended as follows:

6.4 DESIGN STANDARDS

6.4.3 LARGE SCALE RETAIL DEVELOPMENT (W)

E. FACADE TREATMENTS

7. PLANTERS OR SEATING AREAS

- a. *Integrated* planters or walls constructed parallel to the face of the building and incorporating living landscaped areas and/or places for sitting.
- b. Such areas shall be a minimum of two (2) feet wide and nineteen (19) inches high for sitting, and five (5) feet wide for a planter and cover at least fifty percent (50%) of that facade.

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Section 14. Section 7.3.3 of the UDO is amended as follows:

7 SUBDIVISION REQUIREMENTS

7.3 Industrial and Commercial Subdivisions

7.3.3 PRIVATE STREET SUBDIVISIONS

- A. Private street industrial or commercial subdivisions shall follow the same process and procedures as in **Section 3.2.8, Minor Subdivision.**
- B. These subdivisions will not be limited to the requirement of no more than three (3) lots ~~off private access easements as~~ **per tract which do not front on a public street** found in **Section 3.2.8, Minor Subdivision.**

Section 15. Section 8.3.5 of the UDO is amended as follows:

8 ENVIRONMENTAL PROVISIONS

8.3 WATERSHED PROTECTION (F)

8.3.5 DEVELOPMENT STANDARDS

B. DEVELOPMENT STANDARDS

4. FORSYTH COUNTY SPECIAL INTENSE DEVELOPMENT ALLOCATION

a. GENERAL PROVISIONS

ii. ESTABLISHED PURSUANT TO NC WATER SUPPLY PROTECTION RULES

- 1. These provisions are established pursuant to the North Carolina Water Supply Watershed Protection Rules which permit up to ten percent (10%) of the land area in each jurisdiction's portion of the designated watershed area outside the ½ (one-half) mile critical area delineated as of July 1, 1995 to be developed with seventy percent (70%) built upon surface area.
- 2. This section provides for allocation of five percent (5%) of the land area in each jurisdiction's land area, with the remaining five percent (5%) to be held in reserve for future allocation by the Forsyth County Board of Commissioners.

v. TRANSFER OF ACREAGE TO OTHER LOCAL GOVERNMENTS

- 1. The Forsyth County Board of Commissioners may transfer any portion of the available acreage to another local government having jurisdiction in the respective watershed area for projects that meet a countrywide need or that provide a significant economic benefit to the County.
- 2. The acreage shall be transferred by adoption of a joint resolution of the Forsyth County Board of Commissioners and the elected body of the receiving jurisdiction.
- 3. The joint resolution shall be submitted to the Environmental Management Commission for review.

Section 16. Section 9.2.4 of the UDO is amended as follows:

9 NONCONFORMITIES

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9.2 NONCONFORMING USES

9.2.4 Conversion of Certain Nonconforming Uses Permitted

B, CONVERSION OF NONCONFORMING USE TO ANOTHER USE

The Board of Adjustment may authorize the conversion of a nonconforming use to another use which, in the judgment of the Board of Adjustment, is less intensive in character or is essentially of the same character as the original nonconforming use, except that no nonconforming use shall be changed to any of the following uses:

1. Motor vehicle dismantling and wrecking yard;
2. Building materials supply;
3. ~~Implement sales and service;~~ **Reserved;**
4. Storage and salvage yard; or
5. Signs.

Section 17. This ordinance shall be effective upon adoption.

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