



**Conditional Use Requirements**

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**Article  
VIII**

**Fort Mill Unified Development Ordinance**

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## Section 8.1 Scope

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Conditional uses are identified within each of the zoning districts established by this ordinance. These uses may have operational characteristics such as traffic, noise, hours of operation or other factors that warrant the imposition of other requirements, in addition to the base requirements applicable to all uses allowed in the respective zoning district, to mitigate potential impacts and safeguard surrounding properties. This article specifies those added requirements for several uses identified in the district schedule of uses as a conditional use. In addition to these specific requirements, other conditions may be attached to an approval to ensure that the proposed use satisfies one or more of the general review standards of [Section 8.3](#).

## Section 8.2 Application and Review

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- A. Requests for approval of a conditional use shall be submitted to the planning director on a form for that purpose, along with an application fee and an administrative or planning commission level development plan as specified in [Section 14. \\*\\*\\*](#). The planning director shall review the application and development plan relative to conformance with the general standards of [Section 8.3](#), as well as the requirements for the conditional use specified in this article.
- B. The planning director, unless otherwise provided for specific uses, shall approve or deny the application.
- C. If denied, the applicant may appeal the planning director's decision to the planning commission.

## Section 8.3 General Standards for Review

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The following general standards shall be satisfied for all conditional uses:

- A. The proposed use does not adversely affect the general plans for the physical development of the town as embodied in these regulations or in any plan or portion thereof adopted by the planning commission or by the town council.
- B. The proposed use will not adversely affect the health and safety of residents and workers in the town.
- C. The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses. The board may impose additional screening and buffering requirements to insure the proposed use is compatible with the surrounding area.
- D. The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, of the vehicular movement, of noise or fumes or of the type of physical activity.
- E. The proposed use will not create or aggravate hazards to vehicular or pedestrian traffic on the roads and sidewalks, both off-site and on-site.
- F. The proposed use will be compatible with existing uses that are adjacent to or neighboring the proposed location, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures.
- G. The proposed use shall comply with all applicable requirements of this ordinance such as, but not limited to, district requirements, parking, signs, landscaping and development plan review, unless modified by this article for a specific use.

## Section 8.4 Specific Use Requirements-Financial, Office and Business Services

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### A. Check Cashing Establishments, Pay-Day Lenders, Pawnshops and Similar.

1. The use shall be:
  - a. located at least 3,000 feet, measured lot line to lot line, from the nearest check cashing establishment, pay-day lender, deferred presentment lender, pawnshop or title loan company, and

- b. located within a commercial shopping center with the combined floor area of all businesses being 30,000 square feet or more; or
2. The use shall be wholly contained within a single grocery store or general merchandise retail building having at least 30,000 square feet of floor area, with no separate public access to its portion of the premises, and is at least 3,000 feet, measured lot line to lot line, from the nearest check cashing establishment, pay-day lender, deferred presentment lender, pawnshop or title loan company.

## **Section 8.5 Specific Use Requirements-Food, Drink, Entertainment and Hospitality**

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### **A. Micro-Breweries.**

1. The micro-brewery shall produce no more than 15,000 barrels (465,000 US gallons / 17,602.16 hectoliters) of beer per year.
2. This use shall be permitted only in conjunction with a restaurant, in accordance with the following:
  - a. No more than 75 percent of the total gross floor space of the establishment shall be used for the brewery function including, but not limited to, the brew house, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks;
  - b. The façade of the restaurant portion shall be oriented toward the street or, if located in a multi-tenant building, to the common space where the public can access the use;
  - c. Pedestrian connections shall be provided between the public sidewalks and the primary entrance(s).
3. All mechanical equipment visible from the street (excluding alleys), an adjacent residential use or residential zoning district shall be screened using architectural features consistent with the principal structure.
4. Access and loading bays are discouraged from facing toward any street, excluding alleys.
5. Access and loading bays facing any street, adjacent residential use or residential zoning district, shall have the doors closed at all times, except during the movement of raw materials, other supplies and finished products into and out of the building.
6. Loading and unloading materials and equipment shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday.
7. Outdoor storage shall not be allowed, including the use of portable storage units, cargo containers and tractor trailers.

### **B. Outdoor Seating Areas for Restaurants, Taverns and Similar Establishments.**

1. The outdoor seating area shall not obstruct pedestrian movement along adjacent sidewalks. A minimum sidewalk width of five (5) feet shall remain unobstructed between the limits of the outdoor seating area and the outer edge of the walkway.
2. The outdoor seating area shall be surrounded by a decorative fence or similar enclosure at least four (4) feet high with access only from within the building. A self-closing gate that can only be opened from within the enclosure shall be provided for emergency egress. This requirement shall not apply to outdoor seating areas in the DC district.
3. Outdoor seating capacity shall be included in the computation of required parking.
4. Limitations may be imposed upon hours of operation, outdoor sound amplification and/or lighting where the proposed use may create nuisance effects upon adjacent or nearby residential uses.

**C. Restaurants, Drive-in or Drive-through.**

1. Sufficient vehicular stacking capacity for the drive-in or drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of 10 stacking spaces for each service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation, fire lanes, parking spaces and egress from the property by vehicles not using the drive-in or drive-through portion of the facility.
2. A minimum of three (3) parking spaces shall be provided in close proximity to the exit of the pick-up window, to allow for customers waiting for delivery of orders.
3. Public access to the site shall comply with the driveway spacing standards of **Section \*\*\*** but, in no case, be located closer than 125 feet to any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the driveway.
4. Internal circulation and access to/egress from the site shall not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.
5. Menu boards with speakers for the transmission or broadcasting of voices or music shall be oriented and/or muffled to prevent sound from being audible beyond the boundaries of the site.

**Section 8.6 Specific Use Requirements-Health Care and Social Assistance**

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**A. Veterinary Office, Clinic or Animal Hospital.**

1. If the facility is to include outdoor runs or exercise areas, a minimum lot size of one (1) acre shall be required.
2. No dog runs or animal exercise areas shall be located in a front yard or in any required rear or side yard.
3. Outdoor runs/exercise areas shall be set back a minimum of 50 feet from all property lines or the required setback for the zoning district, whichever is greater; provided, a 100 foot setback shall be maintained from any residential or mixed use district boundary.

**Section 8.7 Specific Use Requirements-Public/Quasi-Public Facilities**

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**A. Colleges/Universities.**

1. Primary vehicular access shall be from/to an existing arterial street.
2. Buildings shall be located at least 100 feet from all lot lines and parking lots shall be no closer than 50 feet to a lot line.
3. On-site student housing shall have 1,500 square feet of lot area per unit.
4. Landscaping and screening shall meet the requirements of **Article XI**.

**B. Day Care Facilities or Pre-school Nurseries.**

1. Outdoor play areas shall be enclosed by a secure fence at least four (4) feet high.
2. Off-street parking for all employees of the facility and off-street pickup and drop off areas shall be provided. The drop-off/pick-up area shall be of sufficient length and design to ensure that all vehicle stacking and maneuvering occurs within the facility property and does not extend into the adjacent public street.
3. Evidence shall be provided that all applicable requirements of the State of South Carolina governing the licensing of the facility are met and the use shall be operated at all times in accordance with state requirements.

**C. Places of Worship.** The purpose of these requirements is to integrate places of worship into the fabric of Fort Mill's neighborhoods, but not at the expense of the residential character of those areas. Therefore, the scale of the facility, parking lots and related uses shall be compatible with abutting homes and in character with the surrounding neighborhood.

1. Minimum lot area shall be two (2) acres.

2. Minimum lot width shall be 200 feet.
  3. At least one (1) property line, meeting the minimum width requirement, shall abut and have direct access to an arterial or collector street.
  4. To the extent practical, shared parking arrangements should be employed with other uses in the vicinity, in accordance with the provisions of [Section 10.2 C](#).
- D. Schools (K-12).** The purpose of these requirements is to integrate schools into the fabric of Fort Mill's neighborhoods, but not at the expense of the residential character of those areas. Therefore, the scale of the school, parking lots and related uses shall be compatible with abutting homes and in character with the surrounding neighborhood.
1. Minimum lot area shall be two (2) acres.
  2. Minimum lot width shall be 200 feet.
  3. Maximum building height may be up to 45 feet.
  4. At least one (1) property line, meeting the minimum width requirement, shall abut and have direct access to an arterial or collector street.
  5. To the extent practical, shared parking arrangements should be employed with other uses in the vicinity, in accordance with the provisions of [Section 10.2 C](#).
  6. All buildings, parking areas and outdoor activity areas (ball fields, tennis courts, playgrounds, bleachers, etc.) shall be set back a minimum of 50 feet from any side or rear property line.
  7. Lighting for night-time activity areas shall be directed and shielded so the light source is not visible from any surrounding residential use. All lighting, including building and security lighting shall be located to prevent glare on adjacent properties and streets.
- E. Utility Substation or Subinstallation.**
1. The use shall be enclosed by a fence or wall at least six (6) feet in height above finish grade,
  2. Other uses, such as, but not limited to, office, commercial operations and storage of vehicles or equipment shall not be permitted on the premises, and
  3. A landscaped strip or other screening, as required in [Section 11.3](#), shall be provided.

## **Section 8.8 Specific Use Requirements-Recreation and Leisure**

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**A. Commercial Recreation (outdoor).**

1. The front, side and rear yard minimum setbacks shall be 50 feet for all buildings and outdoor components of the recreational facility; provided, setbacks for any go-cart, vehicle track or similar motorized activity shall be a minimum of 300 feet from any residential district.
2. The parking setback shall be 20 feet in the front, side and rear yards from lot lines in non-residential zoning districts and 50 feet from lot lines in residential districts.
3. Lighting for night-time activity areas shall be directed and shielded so the light source is not visible from any surrounding residential use. All lighting, including building and security lighting shall be located to prevent glare on adjacent properties and streets.
4. An operations plan describing the nature of the use, hours of operation, etc. shall be provided.
5. The planning director may also establish other conditions to minimize negative impacts on nearby uses and traffic operations along public streets, such as, but not limited to hours of operation, noise buffering and location of waste receptacles.

**B. Private Noncommercial Recreation.**

1. Any outdoor activity areas shall be set back a minimum of 50 feet from any residential lot line.
2. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential use or district.
3. Access shall be from an interior public or private street. Access drives shall be a minimum of 100 feet from any street intersection or other driveway.

### C. Sexually-Oriented Businesses.

1. Purpose. In the development and execution of these zoning regulations, it is recognized that some uses, because of their very nature, may have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby causing a deleterious effect upon the adjacent areas. The proximity of sexually oriented businesses to certain uses considered particularly susceptible to the negative impacts of the concentration of sexually oriented uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses to move or avoid the community, increase crime, and contribute to a blighting effect on the surrounding area. There is convincing documented evidence of the deleterious effect that sexually oriented businesses have on both existing businesses around them and the surrounding residential areas to which they may be adjacent. Therefore, the following purposes are served by these regulations:
  - a. This section describes the uses regulated and the specific standards necessary to ensure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient spacing from uses considered most susceptible to negative impacts.
  - b. These provisions are not intended, nor shall they have the effect of, imposing a limitation or restriction on the content of any communicative materials including, but not limited to, sexually oriented materials that are protected by the First Amendment to the United States Constitution.
  - c. Additionally, it is not the intent of the provisions of this section, nor shall it have the effect of, restricting or denying access by adults to sexually oriented materials that are protected by said federal and state constitutions.
  - d. Further, it is not the intent of these provisions, nor shall they have the effect of, denying access by the distributors and exhibitors of sexually oriented entertainment to their target market.
  - e. These regulations shall not be interpreted as intending to legitimize any activities that are prohibited by federal or state law, or by any other ordinance of the Town of Fort Mill.
  - f. The provisions of this section shall apply to all uses defined in this ordinance as sexually oriented businesses.
2. Permit and/or License Required.
  - a. A person commits a misdemeanor if operating a sexually oriented business without a valid permit and/or license issued by the Town of Fort Mill in accordance with this section.
  - b. The town manager is responsible for granting, denying, revoking, renewing, suspending, or canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The town manager is also responsible for ascertaining whether a proposed sexually oriented business for which a permit is being applied complies with all locational requirements of this section, all other applicable zoning laws and/or regulations now in effect, as amended, or as enacted subsequent to the effective date of this section.
  - c. The permit and/or license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit and/or license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so it may be easily read at any time.
  - d. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit and/or license.
3. Procedures for Application and Review of Permits and/or Licenses.

- a. An application for a permit and/or license must be made on a form for that purpose obtained from the planning director. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
  - b. The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with all applicable health, fire, and building codes. The responsible agencies shall complete all required inspections and shall certify their completion within 21 days of receipt of the application.
  - c. If an individual person wishes to operate a sexually oriented business, he/she must sign the permit and/or license application as applicant. If more than one (1) person or a corporation or other business entity wishes to operate a sexually oriented business, each individual who has 10 percent or greater interest in the business must sign the application for a permit and/or license as applicant.
  - d. Upon receipt of an application properly filed with the planning director and upon payment of the nonrefundable application fee, the application shall be stamped as received and shall immediately be distributed to the police department and all other town agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application, and proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this section. All investigations shall be completed within 21 days of receipt of the application. At the conclusion of its investigation, each department or agency shall approve or disapprove the application, date it, sign it, return it to the planning director and, in the event of disapproval, state the reasons therefor. The planning director shall then forward all documents and department/agency comments to the city manager for final disposition of the application.
  - e. The police department shall only be required to certify the NCIC records request check referenced in this section and shall not be required to approve or disapprove applications. The police department shall also provide information regarding whether an applicant has been convicted of a specified criminal act during the time period set forth.
  - f. The town's code enforcement officer shall inspect a proposed, permitted, or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.
  - g. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the town. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the town manager.
4. Issuance of Permit and/or License. The town manager shall approve the issuance of a permit and/or license to an applicant within 30 days of the date the application was filed, unless one or more of the following is found to be true:
- a. An applicant is under 18 years of age.
  - b. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
  - c. An applicant or applicant's spouse is overdue in payment to the town of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.

- d. An applicant has failed to provide information reasonably necessary for issuance of the permit and/or license or has falsely answered a question or request for information on the applicant form.
  - e. An applicant is residing with a person who has been denied a permit and/or license by the town to operate a sexually oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
  - f. The granting of the application would violate a statute, ordinance, or court order.
  - g. The applicant has a permit under this article which has been suspended or revoked.
  - h. An applicant has been convicted of a "specified criminal" act for which:
    - i. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering or tax violation;
    - ii. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;
    - iii. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses for "specified criminal" acts which are sexual acts against children, sexual abuse, rape or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations; offenses occurring within any 24-month period;
    - iv. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
    - v. An applicant who has been convicted of the above described "specified criminal acts" may qualify for sexually oriented business permit only when the applicable time period required above in Subsection h. i-iii has elapsed.
    - vi. An applicant knowingly had in his or her employ, an employee who does not have a valid license as required in this section.
  - i. The permit and/or license fee required by this article has not been paid.
  - j. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.
    - i. If the town manager, denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial.
    - ii. If a person applies for a permit for a particular location within a period of 12 months from the date of denial of a previous application for a permit at that location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.
5. Fees. The annual fee for a sexually oriented business permit and/or license shall be as established from time to time by resolution of the town council
6. Inspection.

- a. An applicant or permittee and/or licensee shall permit representatives of the police department, health department, fire department, codes enforcement department, or other town departments or agencies to inspect the premises of a sexually oriented business at any time it is occupied or open for business for the purpose of ensuring compliance with the law,
  - b. A person who operates a sexually oriented business for his agent or employer commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.
7. Expiration of Permit and/or License.
- a. Each permit and/or license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in **Subsection C.2**. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the permit and/or license will not be affected.
  - b. When the building official denies renewal of a license, the applicant shall not be issued a permit and/or license for one (1) year from the date of denial. If, subsequent to denial, the building official finds that the basis for denial of the renewal permit and/or license has been correct or abated, the applicant may be granted a permit and/or license if at least 90 days have elapsed since the date denial became final.
8. Suspension.
- a. The town manager shall suspend a permit and/or licensee for a period not to exceed 30 days if he/she determines that a permittee and/or license or an employee of a permittee and/or licensee has:
    - i. Violated or is not in compliance with any section of this article; or
    - ii. Been under the influence of alcoholic beverages while working in the sexually oriented business premises; or
    - iii. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or
    - iv. Knowingly permitted gambling by any person on the sexually oriented business premises; or
    - v. Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance, or regulation, whether federal, state, or local, said determination being based on investigation by the division, department, or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance, or regulation violation, the town or its designee, shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the town or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension; or
    - vi. Engaged in permit transfer contrary to **Subsection C.11** of this article. In the event that a permit is suspended on the ground that a permit was transferred contrary to **Subsection C.11**, the town manager shall notify the permittee of the suspension and the corrective actions that are required.
    - vii. Operated the sexually-oriented business in violation of the hours of operation.
    - viii. Knowingly employs a person who does not have a valid license, as required.
  - b. The suspension shall remain in effect until the violation of the statute, code, ordinance, or regulation in question has been corrected.
9. Revocation.
- a. The town manager shall revoke a permit and/or license if a cause of suspension occurs and the permit and/or license has been suspended within the preceding 12 months.

- b. The town manager shall revoke a permit and/or license if he determines that any of the following conditions exists:
    - i. A permittee and/or licensee gave false or misleading information in the material submitted to the codes enforcement department during the application process;
    - ii. A permittee and/or licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
    - iii. A permittee and/or licensee or an employee has knowingly allowed prostitution on the premises;
    - iv. A permittee and/or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's and/or licensee's permit and/or license was suspended;
    - v. A permittee has been convicted of a "specified criminal act" for which the time period required in this section has not elapsed;
    - vi. On two (2) or more occasions within a 12-month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact a conviction is being appealed shall have no effect on the revocation of the permit;
    - vii. A permittee has been operating more than one (1) sexually oriented business under a single roof;
    - viii. A permittee and/or licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted and/or licensed premises;
    - ix. A permittee and/or licensee is delinquent in payment to the town, county or state for any taxes or fees past due.
  - c. When the town manager revokes a permit and/or license, the revocation shall continue for one (1) year, and the permittee and/or licensee shall not be issued a sexually oriented permit and/or license for one (1) year from the date revocation became effective. If, subsequent to revocation, the town manager determines that the basis for the revocation has been corrected or abated, the applicant may be granted a permit and/or license if at least 90 days have elapsed since the date the revocation became effective.
10. Judicial Review. After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek prompt review of such administrative action through the zoning board of appeals. The request for such review shall be filed within 30 days of the date of the ruling from which the appeal is taken. If the denial, suspension, or revocation is affirmed upon review, the administrative action shall be promptly reviewed by the court.
11. Transfer of Permit and/or License.
- a. A permittee and/or licensee shall not transfer his permit and/or license to another, nor shall a permittee and/or licensee operate a sexually oriented business under the authority of a permit and/or license, at any place other than the address designated in the application.
  - b. A permittee shall not transfer a permit to another person unless and until such other person satisfies the following requirements:
    - i. Obtains an amendment to the permit from the town manager, which provides that he/she is not the permittee, which amendment may be obtained only, if he/she has completed and properly filed an application with the town manager, setting forth the information called for under Subsection C.4 of this article in the application; and

- ii. Pays a transfer fee of 20 percent of the annual permit fee set by this section.
  - c. No permit may be transferred when the town manager has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.
  - d. A permittee shall not transfer his/her permit to another location.
  - e. A permit transferred, either directly or indirectly, in violation of this section is hereby declared void and the permit shall be deemed revoked.
12. Sexually Oriented Business Employee License.
- a. Each individual to be employed in a sexually oriented business, who engages in the services rendered by a nude model studio, escort or escort agency, sexual encounter establishment, massage parlor, or a live performer or entertainer shall be required to obtain a sexually oriented business employee license. Each applicant shall pay a permit fee in an amount established by the town council to cover reasonable administrative costs of the licensing application process.
  - b. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form for that purpose the following information:
    - i. The applicant's name or any other names (including "stage" names) or aliases used by the individual;
    - ii. Age, date, and place of birth;
    - iii. Height, weight, hair, and eye color;
    - iv. Present residence address and telephone number;
    - v. Present business address and telephone number;
    - vi. State driver's license or identification number;
    - vii. Social Security number;
    - viii. Acceptable written proof that the individual is at least 18 years of age;
    - ix. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant;
    - x. A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the application, including whether the applicant previously operated or sought to operate, in this or any other town, county, state, or country; has ever had a license, permit, or authorization to do business denied, revoked, or suspended; or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, a copy of the order of denial, revocation, or suspension shall be attached to the application.
    - xi. Whether the applicant has been convicted of a "specified criminal act". This information shall include date, place and nature of each conviction or plea of nolo contendere and the convicting jurisdiction.
  - c. The town manager shall refer sexually oriented business employee license application to the police department for an investigation of such information as is contained on the application. The application process shall be completed within 10 days from the date the completed application is filed. After the investigation, the town manager shall issue a license, unless the report from the police department finds that one (1) or more of the following findings is true:
    - i. The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application or in any report or record required to be filed with the police department or other department of the town;
    - ii. The applicant is under 18 years of age;
    - iii. The applicant has been convicted of a "specified criminal act";

- iv. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this section;
  - v. The applicant has had a sexually oriented business employee license revoked by the town within two (2) years of the date of the current application.
- d. A license granted pursuant to this section shall be subject to annual renewal upon the written application and a finding by the town manager that the applicant has not been convicted of any "specified criminal act" or committed any act during the existence of the previous license period which would be grounds to deny the initial license request. The renewal application shall be subject to payment of a fee as set by resolution of the town council.
13. Location of Sexually Oriented Businesses.
- a. A person commits a misdemeanor, if he operates or causes to be operated as sexually oriented business except as provided for in this section.
  - b. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business outside of a zoning district in which the use is specifically allowed.
  - c. A person commits a misdemeanor if he operates or causes a sexually oriented business to be operated within 500 feet of:
    - i. Any place of religious worship;
    - ii. Any school;
    - iii. The boundary of any residential zoning district;
    - iv. A public park or recreation area;
    - v. Any public library;
    - vi. A day care facility;
    - vii. A youth activity center; or
    - viii. The property line of a lot devoted to residential use.
  - d. A person commits a misdemeanor if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 500 feet of another sexually oriented business.
  - e. For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use or location specified in **Subsection 13.c**.
  - f. A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 500 feet of another sexually oriented business, except as otherwise provided in this subsection.
  - g. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of any use specified in **Subsection 13.c**. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license has expired or has been revoked.
14. Additional Regulations for Adult Motels.
- a. Evidence that a sleeping room in a hotel, motel, boarding house or a similar commercial establishment has been rented and vacated two (2) or more times within less than 10 hours creates a reasonable presumption that the establishment is an adult motel as that term is defined in this ordinance.
  - b. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, boarding house or similar commercial establishment that does not have a sexually

oriented permit and/or license, he rents or subrents a sleeping room to a person and, within 10 hours from the time the room is rented, he rents or subrents the same sleeping room again.

- c. For purposes of this subsection, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

15. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.

- a. If a sexually oriented business, other than an adult motel, contains a viewing room of less than 150 square feet for showing a film, video cassette, or other video reproduction depicting specified sexual activities or specified anatomical areas, the following requirements shall apply:
  - i. Upon application for a sexually oriented permit and/or license, the application shall be accompanied by a diagram of the premises showing a plan specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and identifying any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram must be oriented to the north or to some designated street or object and be drawn to a designated scale or with marked dimensions sufficient to show the interior dimensions of all areas of the premises to an accuracy of plus or minus six inches. The required diagram for renewal applications may be waived if the applicant includes a previously submitted diagram and certifies that the configuration of the premises has not been altered since it was prepared.
  - ii. The application shall be sworn to be true and correct by the applicant.
  - iii. No alteration in the configuration or location of a manager's station may be made without approval.
  - iv. It is the duty of the owners and operator of the premises to ensure that a least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
  - v. The interior of the premises shall be configured in such a manner that there is an unobstructed view from at least one (1) manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms shall not contain video reproduction equipment. The required view must be by direct line of sight from the manager's station.
  - vi. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the required view area remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and that no patron is permitted access to any area which has been designated in the application as an area in which patrons will not be permitted.
  - vii. No viewing room may be occupied by more than one (1) person at any time. No holes, commonly known as "glory holes" shall be allowed in the walls or partitions which separate each viewing room from an adjoining room or restroom.
  - viii. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) footcandle as measured at the floor level.
  - ix. It shall be the duty of the owners and operator and of any agents and employees in the premises to ensure that the illumination described above, is maintained at all times that any patron is in the premises.
- b. A person having a duty under this subsection shall be guilty of a misdemeanor if he/she knowingly fails to fulfill that duty.

16. Prohibitions Regarding Minors. A person shall be guilty of a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business, and knowingly or with reasonable cause to know, permit, suffer, or allow:
- Admittance of a person under 18 years of age to the premises, unless accompanied by a parent or guardian;
  - A person under 18 years of age to remain at the premises, unless accompanied by a parent or guardian.
  - A person under 18 years of age to purchase goods or services at the premises without the specific consent of a parent or guardian; or
  - A person who is under 18 years of age to work at the premises as an employee.
17. Advertising and Lighting Regulations.
- It shall be unlawful and a person shall be guilty of a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued, and advertises the presentation of (???) any applicable state statute or local ordinance.
  - It shall be unlawful and a person shall be guilty of a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued, and displays or otherwise exhibits the materials and/or performances available at such sexually oriented business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising the existence or location of the sexually oriented business.
  - The permittee shall not allow any portion of the interior premises to be visible from outside the premises.
  - All off-street parking areas shall be located in front of the building for safety reasons. All off-street parking and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) footcandle of light on the parking surface and walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
  - Nothing contained in this section shall relieve the operator(s) of a sexually oriented business from complying with all other applicable requirements of this ordinance, as it may be amended from time to time, or any subsequently enacted town ordinances or regulations.
18. Hours of Operation. It shall be unlawful and a person shall be guilty of a misdemeanor if:
- he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued, and allows the business to remain open, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 1:00 a.m. and 9:00a.m. on any particular day and between 12:01 a.m. Sunday and 9:00 a.m. Monday.
  - an employee of a sexually oriented business, regardless of whether or not a permit has been issued for the business, engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service or solicits a service between the hours of 1:00 a.m. and 9:00a.m. on any particular day and between 12:01 a.m. Sunday and 9:00 a.m. Monday.
19. Nudity at Sexually Oriented Businesses.

- a. The United States Supreme Court decision in *Barnes v. Glen Theater, Inc.*, 501 U.S. 560, 111 (1991) which upheld the rights of communities to prohibit live public exposure of a person's private parts, specifically applies to sexually oriented businesses (regardless of whether or not a permit has been issued to the business under this section) where no alcoholic beverages are sold, served, or consumed at the premises.
- b. Public nudity is prohibited within the town, including any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended pursuant to the provisions of this section.

20. Regulations Pertaining to Live Entertainment.

- a. No person shall perform live entertainment for patron(s) of a sexually oriented business, except upon a stage of a least 18 inches above the level of the floor which is separated by a distance of at least 10 feet from the nearest area occupied by a patron.
- b. The sexually oriented business shall provide access for female and male performers between the stage and dressing room facilities which shall not be occupied or used in any way by anyone other than performers. If such separate access is not physically feasible, a minimum four (4) foot wide walk aisle shall be provided for performers between the dressing room area and the stage and shall separate patrons and performers with a railing, fence or other barrier at least 30 inches high which prevents any physical contact between patrons and performers.
- c. No entertainer, either before, during or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during, or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.
- d. No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer. No performer shall solicit a gratuity from any patron.
- e. No operator of a sexually oriented business shall cause or allow a performer to contract or engage in any entertainment such as a "couch" or a "straddle" dance with a patron while in or on the premises. No performer shall contract to or engage in a "couch" or "straddle" dance with patron while in or on the premises. For purposes of this subsection, "couch" or "straddle" dance is defined as an employee intentionally touching or coming within 10 feet of any patron while engaged in any "specified sexual activity" or expose any "specified anatomical area".
- f. This section shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bar tender, comes within 10 feet of a patron. No employee shall engage in any "specified sexual activity" or expose any "specified anatomical area" while acting as a waiter, waitress, host, hostess or bartender.
- g. Compliance with this section:
  - i. No sexually oriented business providing live entertainment shall be in compliance with this subsection until the town's designated agent(s) have inspected and approved the establishment's compliance. The town shall have 10 days from the date it received written notice from the operator that the establishment is ready for inspection to approve or disapprove of compliance required by this subsection. Failure to approve or disapprove within 10 days shall constitute a finding of compliance.
  - ii. The operator of a sexually oriented business that has been providing live entertainment under a valid permit, shall have the time periods listed below in which to bring the establishment into compliance with this subsection. Failure to do so while continuing to provide live entertainment shall cause the establishment's permit to be suspended.

The permit shall remain suspended until the establishment is approved by the town manager as being in full compliance with this subsection.

- iii. An operator, that has been operating under a valid permit for another classification of sexually oriented business and who wishes to provide live entertainment at that establishment, shall apply for and receive a sexually oriented business permit to provide live entertainment prior to commencing such live entertainment. No live entertainment permit shall be issued until the establishment is determined to be in full compliance with this subsection and all other applicable requirements of this ordinance.
- iv. The applicant for a permit to operate a new sexually oriented business providing live entertainment shall apply for and receive a sexually oriented business permit to provide live entertainment prior to commencing such live entertainment. No live entertainment permit shall be issued until the establishment is determined to be in full compliance with this subsection and all other applicable requirements of this ordinance.

21. Additional Criminal Prohibitions for Operation Without a Valid Permit.

- a. In addition to the criminal provisions found at other sections of this section, the following additional criminal provisions shall also apply to sexually oriented business.
- b. It shall be unlawful and a person is guilty of a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business under this section, and that person knows or should know that:
  - i. The business does not have a sexually oriented business permit for any applicable classification; or
  - ii. The business has a permit which is under suspension; or
  - iii. The business has a permit which has been revoked; or
  - iv. The business has a permit which has expired.

22. Exemptions.

- a. It is defense to prosecution if a person appearing in a state of nudity did so in a modeling or dance class or dance troupe operated or wholly sponsored:
  - i. by a proprietary school, licensed by the State of South Carolina, a college, junior college, or university supported entirely or partly by taxation;
  - ii. by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  - iii. In a structure:
    - (a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
    - (b) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
    - (c) where no more than one (1) nude model is on the premises at any one time.
- b. It is a defense to prosecution for a violation of this section that an employee of a sexually oriented business, regardless of whether or not it is permitted under this section, exposed any specified anatomical area during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room which is accessible only to employees.

23. Criminal Penalties and Additional Legal, Equitable and Injunctive Relief.

- a. A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or in violation of any provision of this section is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of \$500.00 or 30 days imprisonment.

- b. In addition to whatever penalties are applicable under the South Carolina Penal Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this section, that person, upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed 30 days in jail, or both, in the discretion of the court. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation or noncompliance shall be considered a separate offense.
- c. Nothing contained in this section shall prevent or restrict the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include, but not be limited to, an equitable action for injunctive relief or an action at law for damages.
- d. Further, nothing in this section shall be construed to prohibit the town from prosecuting any violation of this section by means of the town's code enforcement division.
- e. All remedies and penalties provided for in this section shall be cumulative and independently available to the Town of Fort Mill and the town shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.

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## **Section 8.19            Specific Use Requirements-Residential**

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### **A. Accessory Dwelling Units.**

1. An accessory dwelling unit may be located within or attached to a single-family detached dwelling or within a detached accessory building.
2. The accessory dwelling unit shall share the same sewage disposal and water supply systems as the principal dwelling unit.
3. A minimum of one (1) off-street parking space shall be provided for the accessory dwelling unit in addition to the off-street parking spaces required for the principal dwelling unit.
4. The accessory dwelling unit shall be limited in size to a maximum of 25 percent of the total living area of the principal dwelling or 800 square feet, whichever is less.
5. The accessory dwelling may contain no more than a living area, one bedroom, one bath and a kitchenette (including a small refrigerator, microwave oven, stove and sink).
6. The property owner shall live in the principal or accessory dwelling.
7. The accessory dwelling unit shall be occupied by a maximum of two (2) people.
8. No new access points or driveways shall be created or installed for access to the accessory dwelling unit.

### **B. Bed and Breakfast.**

1. A bed and breakfast shall be operated at all times in accordance with State of South Carolina requirements.
2. A bed and breakfast shall not provide more than five (5) guest rooms, plus a common area for use by all guests.
3. A bed and breakfast establishment shall be located only in a detached single-family dwelling, designed and constructed for single family use, which shall contain at least 1,500 square feet of useable floor area. For each guest room in excess of two (2), an additional 100 square feet of floor area shall be required.
4. The bed and breakfast shall be the principal residence of the owner, who shall reside there when the bed and breakfast is in operation. If the owner is not in residence in the dwelling unit for 14 consecutive days or more, the bed and breakfast shall be closed until the owner returns.
5. Meals shall be limited to breakfast and evening snack, and shall be served only to guests of the facility and members of the owner's family.
6. There shall be at least one (1) parking space provided for each guest room, in addition to the parking spaces required to serve the principal residence.

7. One sign, not exceeding four (4) square feet, shall be allowed for identification purposes. Sign lighting shall be down-lit and shielded from view off site. Internally lighted signs are not permitted.
  8. Cooking facilities in bed and breakfast guest rooms are prohibited.
  9. Exterior refuse storage facilities shall be screened from view on all sides by a six (6) foot solid decorative fence or wall, or by other screening approved by the planning director.
  10. In addition to the development plan required by this ordinance, a floor plan of the dwelling units and the use of each room shall also be submitted with the conditional use application.
- C. **Home Occupations.** A home occupation shall be permitted in any residential district or within dwelling units in any mixed use district; provided, the occupation:
1. is conducted by no other person than members of the family residing on the premises,
  2. is conducted entirely within the principal building,
  3. utilizes not more than 25 percent of the total floor area of the principal building,
  4. produces no alteration or change in the character or exterior appearance of the principal building from that of a dwelling,
  5. involves no sale or offering for sale of any article not produced or assembled by members of the family, or any service not entirely performed by members of the family, residing on the premises,
  6. creates no disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, traffic hazard, unhealthy or unsightly condition,
  7. is not visibly evident from outside the dwelling, except for one non-illuminated sign no larger than two (2) square feet in area, mounted against a wall of the principal building, and
  8. provides adequate off-street parking for the maximum number of vehicles anticipated in the conduct of the occupation in a manner and location that does not detract from the appearance of the premises or inconvenience the neighboring residences.
- D. **Manufactured Home Community.**
1. Purpose. The purpose of this section is to provide for development of properly located and planned facilities for manufactured home communities. Such areas must be carefully located and designed to meet the needs of the residents and to achieve a satisfactory relationship to adjoining and nearby uses. Emphasis is given, therefore, to the location of a proposed manufactured home community, the relationship of the site and the site development plan to adjoining property, and the development plan itself when evaluating the manufactured home community.
  2. Conformance with Regulations.
    - a. It shall be unlawful for any person to locate or cause to be located or to allow one (1) or more manufactured homes to be located on any parcel or lot, unless one (1) of the following requirements or conditions is satisfied:
      - i. The manufactured home is nonconforming as defined in **Article XIX** of this ordinance; or
      - ii. The manufactured home is within an approved manufactured home community; or
      - iii. The manufactured home is used in connection with an allowable temporary use; or
      - iv. The manufactured home is on an individual lot in a district in which it is a permitted use.
    - b. The owner or operator of a manufactured home community may permit a recreational vehicle to locate on an individual lot for periods no greater than one (1) week; provided, the recreational vehicle is being used or intended to be used as a temporary dwelling for guests. The long-term storage of recreational vehicles shall only be permitted within a designated outdoor storage area located within the manufactured home community: provided, such units are not used for purposes of living, sleeping, or cooking while in storage.
    - c. These regulations shall not be construed to prohibit parking and/or storing any manufactured home for the purpose of sale by the owner or licensed dealer upon any lot or tract on which the sale of such vehicle is permitted under these regulations.

- d. Except as allowed under **subsection 2.a**, it shall be unlawful to store or park any unoccupied manufactured home for longer than 48 hours, except in an emergency, and then only after first obtaining a special permit from the planning director. No emergency storing permits shall be issued for a period longer than seven (7) days in duration.
3. Permitted Uses Within a Manufactured Home Community. Manufactured homes communities and buildings when constructed, altered, extended, or used shall be arranged, intended, and designed to be used exclusively for one or more of the following uses according to the conditions specified in this ordinance:
    - a. The placement of manufactured homes for use as a dwelling.
    - b. Caretaker's or manager's home or offices.
    - c. Service building to house services for occupants of manufactured home community only, including management office, mail pick-up, restrooms, vending machines, washing and drying machines for domestic laundry, recreation facilities accessory to the manufactured home community, and similar uses.
  4. Site Planning.
    - a. Site planning should adapt to individual site conditions. An informal park type of site planning which conforms to terrain and retains existing trees and shrubs is preferred. The manufactured home spaces should be fitted to the terrain with a minimum disturbance of the land. Existing trees and other natural site features shall be preserved to the extent practical. Variations in the street pattern, block shapes, and location of manufactured home strands should be employed. Excessive repetition of the principal elements of the plan is not acceptable.
    - b. Adequate protection shall be provided against any undesirable offsite views or any adverse influence from adjoining streets and areas, and protection for offsite residential areas from undesirable views and adverse influence from areas within the park. Consideration shall be given to the location and arrangement of manufactured homes and of buildings, recreation and parking areas, the nature and extent of screening, setbacks, street design, and open space in the evaluation of the site plan and its relation to the surrounding areas.
    - c. All manufactured home site plans must be approved by the South Carolina Department of Health and Environmental Control.
  5. Contents and Review of Preliminary Plans. Manufactured home communities shall comply with the preliminary plot standards as established in **Section \*\*\***. A preliminary plan shall contain the following:
    - a. A preliminary map prepared and certified by a professional engineer, landscape architect, architect, or land surveyor duly registered by the state, showing:
      - i. Minimum setback lines shown with approximate dimension of manufactured home lots, manufactured home stands, manufactured home patios, and walkways from patios to parking areas.
      - ii. Boundaries of the tract with course and distances, north point, graphic scale of 1:200 feet or larger.
      - iii. Accessory building dimensions and locations.
      - iv. Existing and finished contours at intervals of two (2) feet.
      - v. The location of the following existing and proposed facilities:
        - (a) Water lines and size,
        - (b) Sanitary sewer lines and size,
        - (c) Storm sewer line size,
        - (d) Dedicated streets showing rights-of-way, dimensions, names, driveways, entrance and exits, sight distance at intersections, private drives with dimensions,

- (e) Bridges, culverts, railroads, water courses, including ditches, easements, alleys, walkways,
  - (f) Refuse container locations, if required,
  - (g) Location, arrangement, and dimensions of automobile parking spaces, width of aisles, width of bays, angle of parking and number of spaces,
  - (h) The locations of transformer pads, electrical poles, telephone poles, and plans for electrical distribution and connections,
  - (i) Street lighting for private drives and parking areas,
  - (j) The location and size of gas lines,
  - (k) Location of recreational facilities, and
  - (l) Site location of fire hydrants.
- b. Proposed name of the manufactured home community; names and addresses of owners and designers of the development; street names and addresses.
  - c. The preliminary plan shall include US Mail delivery and pick-up locations.
6. Contents and Review of Final Plan. Manufactured home communities shall comply with the final plot standards as established in **Section 22.2** when the development includes right-of-way dedications, easements, and/or manufactured home community subdivision. The final plan shall contain the following:
- a. Same requirements as listed on the preliminary plan.
  - b. Satisfactory evidence of review, comment and approval by each of the following departments or agencies:
    - i. Public works: refuse collection;
    - ii. Fire department: fire hydrant lines and fire hydrant locations;
    - iii. Fort Mill Utilities: street utilities, electrical distribution and connection, gas distribution and connection (as required), water distribution, sanitary sewer;
    - iv. Engineering/inspections: storm sewer, traffic circulation and parking, streets and park drives;
    - v. Recreation: parks, trails, athletic facilities; and
    - vi. Health department: as required.
  - c. Proposed public streets, park drives, and dedicated streets showing natural and finished grades drawn to scale of not less than one (1) inch equals four (4) feet vertical.
  - d. Vicinity sketch drawn to scale of one (1) inch equals 1,000 feet.
  - e. Site data: total acres, total recreational acreage, total lots, parking ratio, and density ratio.
  - f. Type of buffering to be provided.
  - g. A numbering plan for all manufactured home lots in the proposed park.
  - h. Detail of a typical manufactured home lot showing water, sewer, and electrical connections.
  - i. Location and extent of surface areas, lawns and planted areas.
7. Development Requirements. Manufactured home communities shall meet the following development requirements:
- a. The minimum area of any development site shall be three (3) acres, including right-of-way, utility easements, and recreation areas.
  - b. The maximum gross density of a manufactured home community or sections thereof shall be six (6) dwelling units per gross acre.
  - c. There shall be no less than 10 manufactured home lots available at first occupancy.
  - d. When a manufactured home community is developed by sections, a final plan for each section shall be approved by the planning director before any permits can be issued for that section.

- e. It shall be unlawful for any person to sell manufactured homes within a manufactured home community on a commercial basis, except that an individual manufactured home owner shall be allowed to sell the manufactured home in which the person maintains occupancy.
8. Manufactured home Lot Requirements. Each individual lot within a manufactured home community shall meet the following requirements:
    - a. A manufactured home community shall be divided into manufactured home lots, the limits of which shall be clearly marked on the ground by permanent flush stakes. Each lot shall be of sufficient size to meet minimum dimensional area and separation requirements based upon the anticipated size and character of the manufactured home and its additions to be placed on the lot. At a minimum, each lot shall have an area of 5,000 square feet and a minimum width of 50 feet. No more than one manufactured home may be erected per lot.
    - b. Location of lots on the ground shall be approximately the same as shown on the approved plans. Precise engineering of space limits is not required either on the plans or on the ground, except when a manufactured home subdivision is proposed.
    - c. Each manufactured home shall be erected or located on a permanently constructed stand meeting the following requirements:
      - i. The manufactured home stand and the manufactured home lot shall be graded to provide adequate storm drainage away from the manufactured home.
      - ii. The location of each manufactured home stand shall be at such elevation, distance, and angle in relation to the parking lot and the adjacent private or public street that placement and removal of the manufactured home is practical by means of customary moving equipment.
      - iii. A manufactured home stand shall consist of a rectangular plot 28 feet by 70 feet with concrete patio and a concrete walk to a private drive.
      - iv. Manufactured home stands may be located with direct access to public or private interior streets which exclusively serve the manufactured home community.
      - v. For each manufactured home there shall be constructed a permanent patio located adjacent to or attached to the manufactured home stand, and each patio shall have:
        - (a) an area of at least 64 square feet in area;
        - (b) sufficient gradient to facilitate adequate drainage away from the manufactured home stand; and
        - (c) a well-graded, well-drained and compacted base of concrete, or masonry construction.
      - vi. Each manufactured home shall be tied down to the stand and have a curtain covering its base.
    - d. A walkway shall be constructed for each manufactured home lot connecting the parking lot or parking space and the patio.
      - i. the width of the walkway shall be three (3) feet.
      - ii. the walkway shall consist of a compacted base, and shall be constructed of concrete or masonry, in accordance with the Town of Fort Mill specifications.
9. General Requirements. Manufactured home community installations and construction requirements shall be as specified below:
    - a. A permanent street address shall be assigned to all manufactured homes located within a manufactured home community in accordance with the Town of Fort Mill Code.
    - b. All manufactured home community sewer inlets for individual manufactured homes must be provided with a removable, gas tight seal plug or cap to be put in use immediately when the inlet is not in service. The plug or cap shall be of the type that cannot be removed easily by children, and shall be approved by the town's plumbing inspector.

- c. Each manufactured home stand shall be located at least 20 feet from any other stand and 25 feet from the right-of-way of a public dedicated street or easement of a private street.
  - d. Attached structures such as awnings, cabanas, storage cabinets, carports, windbreaks, and porches for purposes of the separation requirements are to be considered part of the manufactured home stand.
  - e. Ingress and egress to/from the manufactured home community shall be through an approved entrance. Individual lots shall not be accessed directly from any perimeter street adjacent to the manufactured home park.
10. Buffering. Shall be required in accordance with **Article XI** of this ordinance.
11. Recreation.
- a. Recreation areas serving adult and school age residents shall be provided at a ratio of 350 square feet per dwelling unit; provided, this requirement shall not apply if the manufactured home community is within one-half (½) mile of a public park or school recreation facility available to the public, or if the project is three (3) acres or less.
  - b. Swimming pools, clubhouses, accessory buildings for recreational uses, and structures for recreational activities shall not be located within 35 feet of any adjacent property line. Swimming and wading pools shall be fenced.
12. Parking.
- a. Parking shall be provided in accordance with the off-street parking requirements of **Article X**.
  - b. Two off-street parking spaces shall be provided per lot within the manufactured home community. At least one (1) of the required parking space shall be provided on each lot, but no closer than five (5) feet to the dwelling unit. The other required space, if not on the lot, shall be within a designated parking area no further than 150 feet from the lot it is to serve.
  - c. On-street parking shall not be used to satisfy the parking requirements.
  - d. Parking spaces and lots shall be surfaced with concrete or bituminous asphalt as per the specifications of the Town of Fort Mill.
13. Compliance and Permit Validity.
- a. *Operating requirements*: Each manufactured home community shall be operated in accordance with the rules and regulations of the South Carolina Department of Health and Environmental Control governing the sanitation and operation of manufactured home communities in South Carolina.
  - b. *Utility requirements*: Each manufactured home shall be connected to the water mains and sanitary sewer systems of the Town of Fort Mill in an approved manner. Should either or both of these facilities be unavailable, private systems of an approved type may be used.
  - c. *Revocation of permit*: The building official may revoke any permit to maintain and operate a manufactured home community when the operator, owner or manager has been found guilty by a court of competent jurisdiction of violating any provision of this ordinance. After such conviction, if the circumstances leading to conviction have been remedied and the community is being maintained and operated in full compliance with the law, the permit may be reissued.
  - d. *Posting of certificate of occupancy*: The certificate of occupancy shall be conspicuously posted in the office or on the premises of the manufactured home community at all times.

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## Section 8.10 Specific Use Requirements-Retail Trade and Service

### A. Kennels and Pet Day Care.

1. Kennels and pet day care facilities that include outdoor runs/exercise areas shall not be located adjacent to a residential or mixed use district boundary.
2. Minimum lot size shall be two (2) acres.

3. No dog runs or animal exercise areas shall be located in a front yard or in any required rear or side yard.
4. Outdoor runs/exercise areas shall be set back a minimum of 75 feet from all property lines or the required setback for the zoning district, whichever is greater; provided, a 100 foot setback shall be maintained from any residential dwelling.

**B. Outdoor Display Areas for Retail Establishments.** These regulations shall apply to all retail establishments, except those within the DC, Downtown Core District.

1. The outdoor storage and display area shall be arranged to provide safe pedestrian and vehicular circulation and safe emergency access. Maneuvering aisles shall be kept free of all obstruction.
2. A drive shall be provided, graded, paved, and maintained from the street to the rear of the property, to permit free access of emergency service vehicles and firefighting equipment at any time.
3. The sale or outdoor display of merchandise shall not be permitted within the required setback areas.
4. Outdoor storage and display areas located on parking lots shall not reduce the available parking spaces to fewer than those required by *Article X* for the principal use.
5. No outdoor display area or parking serving an outdoor display area shall be located within 50 feet of any residential district boundary line.
6. The storage of soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials, unless packaged in approved containers, is prohibited.
7. The planning director may require an obscuring screen around any storage or display area that meets maximum fence height requirements for the zoning district. Stored materials and stockpiles shall not be piled or stacked higher than the height of the obscuring screen.
8. All outdoor display and sales areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
9. All loading and truck maneuvering shall be accommodated on-site or on a dedicated easement. Maneuvering in the public right-of-way is prohibited.
10. Lighting for security purposes may be required, as determined by the planning director. All lighting shall be shielded from adjacent residential districts and uses.
11. Permanent outdoor storage areas shall be attached to and be considered part of the principal building relative to all setback requirements. The storage area shall be fenced with a decorative fence or wall at least six (6), but no more than eight (8), feet in height. Chain-link, or similar style fences, are prohibited.

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## **Section 8.11 Specific Use Requirements-Transportation and Warehousing**

### **A. Heliports and Helipads.**

1. Conditional use requests for heliports and helipads shall be first considered by the planning commission which shall make a recommendation to the town council for final action. At the discretion of either body, a public hearing, duly noticed in accordance with the provisions of *Section \*\*\**, may be conducted.
2. The proposed heliport and all appurtenant facilities and equipment shall be constructed, operated and maintained in accordance with the published rules, regulations and guidelines of the Federal Aviation Administration and the South Carolina Aeronautics Commission.
3. The use shall be located on a parcel having a minimum area of 10 acres.
4. The touchdown and lift-off area (TLOF), as defined in Federal Aviation Administration Advisory Circular 150/5390-2B, or any successor advisory circular, shall comply with the following minimum separation distances:
  - a. from the boundary of any property zoned Light Industrial (LI): 150 feet;

- b. from a building on property, other than property owned by the applicant, zoned Light Industrial (LI): 200 feet;
  - c. from the boundary of property in any other zoning district: 300 feet;
  - d. from a building on property in any other zoning district: 500 feet.
5. A helicopter shall not remain in operation on the ground for a period of time greater than that necessary for startup/shutdown, loading and otherwise essential ground operations (generally no longer than 5 minutes).
  6. As a condition of approval, limits may be imposed on:
    - a. size and type of rotorcraft permitted to use the facility;
    - b. allowable hours of use of the facility;
    - c. frequency of helicopter operations permitted at the facility; and
    - d. location, design, type, size, and use of any exterior lighting, buildings, fuel storage or other equipment or facilities associated with the heliport.
  7. The provisions of this section shall not apply to emergency operations conducted by law enforcement, public safety agencies or emergency medical service providers.

**B. Cartage, Express, Parcel Delivery Facilities and Freight and Intermodal Terminals.**

1. The site shall have a minimum area of five (5) acres.
2. All access to the site shall be from an arterial street built to a standard to accommodate heavy trucks; provided, access may be from an interior street within an industrial park or similar planned development that intersects with such an arterial street.
3. The site shall be designed so all vehicles enter, leave and maneuver within the site without backing in or out from the street. Driveways shall be curbed for their full length in the front yard.
4. The planning director shall determine that traffic will be no more hazardous nor the volume of traffic any greater than is normal for the road involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and adequacy of interchanges.

**C. Mini-Warehouse or Personal Storage Units.**

1. The minimum size of the site shall be not less than five (5) acres.
2. All ingress and egress from the site shall be directly onto an arterial or collector street.
3. Storage of combustible or flammable liquids, combustible fibers, or explosive materials, as defined in the fire prevention code, or toxic materials, shall not be permitted within the self-storage buildings or upon the premises. However, storage of recreational vehicles containing fuel and other automotive fluids is permitted.
4. The use of the premises shall be limited to storage of personal and business items and shall not be used for operating any other business, maintaining or repairing vehicles or for any recreational activity or hobby.
5. Limited retail sales of products and supplies incidental to the principal use, such as packing materials, packing labels, tape, rope, protective covers, locks and chains shall be permitted within a central office.
6. The entire site shall be screened from view in accordance with the requirements of [Section 11.3](#).
7. A security manager may be permitted to reside on the premises. A minimum of two parking spaces shall be provided for the dwelling unit and the requirements of [Article X](#) shall be met.
8. Minimum separation between self-storage buildings shall be 24 feet.
9. Internal drive aisles shall be at least 24 feet wide and must be clearly marked to distinguish traffic flow.
10. Building design and materials shall be compatible with the existing and intended character of the area. If located adjacent to residential zoned property, the front office building, or office portion of the building, shall reflect a residential character in architectural design.
11. To the maximum extent practical, storage unit doors shall not face public right-of-way.

12. Fences within front yards and any side yards adjacent residential zoned property shall be wrought iron or a similar decorative type. Chain-link, or similar style fences, are prohibited in these areas.

**D. Outdoor Storage Related to Principal Industrial Uses.**

1. Outdoor storage shall not be permitted in any front yard.
2. Outdoor storage shall only be permitted as an accessory use to principal uses in the LI district.
3. The outdoor storage area shall be fenced on all sides in accordance with the requirements of **Section 9.12**.
4. Any side that is visible to adjoining properties in a residential district, neighboring parking lots or abutting streets shall be screened in accordance with the requirements of **Section 11.3**.
5. The planning director may permit the required screening to be comprised of plant material, upon a determination that the alternate materials will provide the same degree or better of opacity, screening and compatibility with adjoining properties as a fence or wall.

**Section 8.12 Specific Use Requirements-Utility and Waste Processing and Disposal**

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**A. Processing, Storage, Transfer, Disposal or Incineration of Solid, Hazardous or Medical Waste.**

1. Conditional use requests for hazardous waste facilities shall be first considered by the planning commission which shall make a recommendation to the town council for final action. At the discretion of either body, a public hearing, duly noticed in accordance with the provisions of **Section \*\*\***, may be conducted.
2. The use shall be located on a site of not less than 20 acres.
3. All truck access to and from the site shall be from an arterial street or an interior street serving an industrial park or planned industrial development that intersects with an arterial street.
4. To ensure that the reasonable use of neighboring properties is not adversely affected and to reduce the potential for adverse health, odor or other environmental impacts, the proposed site shall abut the LI district on all sides and shall comply with the following separation distances:
  - a. Two thousand six hundred forty (2,640) feet from any property occupied by a hospital, nursing home, senior housing project, or any facility designed for use by the physically infirm, or where large numbers of people congregate, such as recreation centers, parks or playgrounds, public meeting halls, places of religious worship, schools or libraries.
  - b. Six hundred sixty (660) feet from any existing residential structure or any residential or mixed use district boundary.
  - c. Additionally, the planning director shall determine that the proposed use shall not adversely affect nonconforming residential uses and that adequate separation is provided from existing industrial uses that may be particularly sensitive, such as food, beverage or drug processing facilities.
  - d. The separation distances specified above may be reduced by not more than 50 percent upon a finding by the planning commission that the distance is sufficient to prevent any occurrence of health or obnoxious odor problems or pollution of land, water courses or drainage systems.
5. The minimum width and plant material requirements for greenbelts and landscape buffer zones shall be increased by 50 percent above the minimum greenbelt and buffer requirements of **Article XI**.
6. Environmental Controls.
  - a. All processing, treatment, recycling, transfer, unloading and storage shall be within a completely enclosed building or in approved storage tanks. The facility shall be constructed to enclose all equipment which generate significant levels of noise.
  - b. All aggregate and bulk materials shall be stored in the building or in concrete bunkers or silos. The bunkers or silos shall be equipped to control fugitive dust and particles.

- c. The required site plan shall indicate that all motor vehicles, which have contained or been in contact with hazardous waste, recycled materials or sludge, shall be washed clean prior to leaving the site. The method and area for washing shall be specified on the development plan.
  - d. The facility shall be equipped with an approved waste water recycling system to avoid contaminated water or liquids from being discharged to ground water, surface water or storm sewers. This shall include a wash-out, wash-down, and secondary containment system to recover and recycle impurities and other by-products processed from trucks, machinery products, supplies or waste.
  - e. All surface areas involved in the loading, unloading, transfer or storage shall be constructed to prevent the runoff of any hazardous material to unpaved areas or non-designated drainage facilities. Potential waste shall be collected with a secondary containment system and processed or disposed of according to state or federal regulations. Any drainage of fluids shall be on a non-pervious platform so that all liquids will be contained and not discharge to the ground.
7. All driveways, surface roads and storage areas on the premises shall be paved with concrete or deep strength asphalt. Deceleration lanes shall be provided in accordance with the Town of Fort Mill design standards. Acceleration or passing lanes may be required by the town engineer. The planning director shall take into consideration vehicular turning movements in relation to traffic flow, proximity of curb cuts and intersections.
  8. All areas of the site which are not paved for parking, driveways, loading or operation shall be landscaped and maintained in accordance with **Article XI**.
  9. The facility and all of its operations shall strictly comply with all applicable town, county, state and federal statutes, regulations, rules, orders and ordinances. Systems shall be employed to contain and process all discharged materials from the facility in an environmentally sound manner.
  10. Plans and/or reports shall be filed with the Fort Mill fire department, indicating the types of materials and where they are located on the site.
  11. All approvals by the town shall be conditioned and subject to the applicant securing all required approvals and permits, as defined by local, county, state and federal statutes and regulations.
  12. The town council shall establish fees to pay its costs of administration and inspections of the site and facility to ensure that the development is being operated in compliance with the conditions of approval.

#### **B. Salvage Yards.**

1. Conditional use requests for salvage yards shall be first considered by the planning commission which shall make a recommendation to the town council for final action. At the discretion of either body, a public hearing, duly noticed in accordance with the provisions of **Section \*\*\***, may be conducted.
2. All vehicles, parts, material and equipment shall be stored within enclosed buildings or within an area completely enclosed by a screening fence or wall at least eight (8) feet in height.
3. The screening fence shall be of such design as to completely obstruct vision. No chain link fence, with or without covering, shall be permitted.
4. The screening fence or wall shall be set back from all property lines in accordance with the minimum yard requirements of the zoning district.
5. No materials shall be stacked higher than the screen fence or wall.
6. All materials shall be stockpiled in neat and orderly rows with adequate aisle space provided between rows to accommodate emergency vehicles and equipment.
7. No storage area shall be located within 500 feet of a residential or mixed use district.

**C. Construction and Demolition Debris (C&D) and Municipal Solid Waste (MSW) Landfills.**

1. Conditional use requests for landfills shall be first considered by the planning commission which shall make a recommendation to the town council for final action. At the discretion of either body, a public hearing, duly noticed in accordance with the provisions of **Section \*\*\***, may be conducted.
2. The landfill shall be located on a parcel of land of not less than 100 acres.
3. All buildings, structures and equipment shall be removed upon completion of the landfill operation.
4. The parcel shall be enclosed by a fence six (6) feet high that provides a visual screen and contains windblown debris.
5. No burning of waste material will be allowed without a permit from applicable local, county, state or federal agencies.
6. The minimum width and plant material requirements for greenbelts and landscape buffer zones shall be increased by 50 percent above the minimum greenbelt and buffer requirements of **Article XI**.
7. A remediation and redevelopment plan for the site shall be submitted as part of the conditional use application. Once the landfill operation is completed, the land is to be graded to smooth contours suitable for other uses.
8. An Environmental Impact Assessment shall be submitted as part of the application.
9. The planning commission may recommend and the town council may impose any other regulations which it deems necessary to protect the safety, health, and general welfare of the people of the community and will have the authority to make any change or alterations in such plans and modify any requirements and regulations herein prescribed, provided they are in the best public interest and such that the property may be developed in a reasonable manner, but, in so doing, complying with other applicable provisions of this ordinance.
10. The town council may require a performance guarantee in an amount necessary to ensure that requirements are fulfilled, subject to **Section \*\*\***.
11. All applicable permitting requirements of the South Carolina Department of Health and Environmental Control shall be met and the use shall be operated at all times in accordance with state requirements.

**D. Wind Energy Conversion Systems (WECS).**

1. General requirements.
  - a. The minimum lot area for installation of a wind energy conversion system (WECS) shall be 12,000 square feet.
  - b. The power rating of a single accessory WECS turbine shall not be greater than 25 kW.
  - c. A single accessory WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property. However, this does not prevent power generated beyond the needs of the structures or uses on the property to be distributed to a local utility company through net metering. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.
  - d. Sound attributed to a single accessory WECS in excess of 55 dB(A) shall not be discernible at the property line.
  - e. A sign, not exceeding three square feet in area naming the manufacturer may be affixed to the base of the tower or to the nacelle; no other signs are permitted on the WECS.
  - f. Lights on or directed toward a WECS are not permitted.
  - g. A single accessory WECS shall be painted in a neutral matte color, such as gray or light blue, to blend with the sky. A building mounted WECS may be painted in colors complementary to those of the building.

- h. A single accessory WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. Emergency shut-off information shall be posted on the tower in a location that can be easily seen.
- i. A single accessory WECS shall employ an anti-climbing device or be designed to prevent climbing and other unauthorized access.
- j. The installation of a single accessory WECS shall not interfere with signal transmission or reception of an existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems.
- k. The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to town ordinances.
- l. All single accessory WECS installations shall comply with applicable ANSI (American National Standards Institute), National Electric Code and National Building Code standards, as adopted by the State of South Carolina, York County and the Town of Fort Mill.
- m. A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for 12 consecutive months.
- n. An existing and approved single accessory WECS may be repaired and maintained; however, a WECS may only be replaced with a new WECS upon approval of the administrator; provided, the new WECS is of the same height, rotor diameter, setback, etc. as the WECS it replaces. A new or replacement WECS shall mean all of the WECS, excluding the tower or support structure.
2. Ground-mounted single accessory WECS.
- a. A ground mounted single accessory WECS shall be located on a property at a distance at least equal to its height from all property lines. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line. No part of a single accessory WECS (including guy wire anchors) shall be located within or above a required setback.
- b. WECS height shall be limited based on the setback requirements in paragraph 2.a; provided, on a property less than one (1) acre in area, the height shall not exceed 50 feet; and on property one (1) acre or greater the height shall not exceed 75 feet.
- c. The minimum rotor blade tip clearance from grade and from any structure shall be 20 feet.
- d. The diameter of the rotor depends on maximum single accessory WECS height and rotor blade tip clearance, but in no case shall it exceed 50 feet.
- e. The tower used to support a WECS shall be adequately anchored and meet applicable standards, as certified by a structural engineer registered in the State of South Carolina.
3. Building Mounted Single Accessory WECS.
- a. The diameter of the rotor shall not exceed 20 feet.
- b. WECS height shall not exceed the maximum permitted height for principal buildings in the district, plus 15 feet.
- c. A single accessory WECS shall be separated from adjoining property lines a distance equal to the height of the building (ground to peak) measured at the point where the WECS is mounted plus the

Insert height measurement graphic

Insert height measurement graphic

- height of the WECS. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line.
- d. A building mounted single accessory WECS shall not be mounted to the vertical face of a gable end or dormer that is visible from the street. To the greatest degree possible, the WECS shall be mounted to the building in the least visible location.
  - e. The mount and the structure used to support a building mounted WECS shall meet applicable standards, as certified by a structural engineer registered in the State of South Carolina.
4. **Discretionary conditions.** The administrator may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of a WECS, including, but not limited to, the following:
- a. The preservation of existing trees and other vegetation not required to be removed for installation of a WECS.
  - b. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
  - c. Altering the location of the WECS to prevent impacts on neighboring properties; provided, all other requirements of this section are met.
  - d. Requiring a performance guarantee, in accordance with the requirements of **Section \*\*\*** and conditioned upon the timely and faithful performance of all required conditions, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. The performance guarantee shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

#### E. **Wireless Communication Facilities and Towers.**

1. **Required Approvals.** The placement of wireless communications facilities and towers shall meet the following approval requirements:
  - a. *Installation of New Antenna.* The installation of new antenna(s) on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the administrator subject to all requirements of this section. Any new antenna that will add either 10 percent or 20 feet, whichever is less, above the highest point of any existing tower or alternative structure shall be subject to the provisions of this section for the installation of new towers, as described below.
  - b. *Installation of New Accessory Structures.* The installation of new accessory structure(s), such as equipment buildings, to support the installation of additional antennas on existing towers or alternative structures may be approved by the administrator.
2. **Removal.** Any tower unused or left abandoned for 12 consecutive months shall be removed by the property owner at his/her expense. Regardless of the tower ownership, the property owner shall be responsible for removal. Upon the request of the administrator, the operator of any facility to which this provision applies shall provide documentation of the use of that facility for the purpose of verifying any abandonment.
3. **Interference with Public Safety Facilities.** No new wireless communications facilities or tower shall result in any interference with public safety telecommunications.
4. **Required Documentation for all Facilities.** In addition to the requirements provided in this section for conditional approval, applications for new towers, new antenna, and new related facilities, including equipment mounted on an existing building, shall include the following:
  - a. *Engineer's Report.* A report from a professional engineer licensed in the State of South Carolina that:

- i. Describes the height and design of any new tower and/or antenna including a cross-section, latitude, longitude, and elevation; Describes or updates (in the case of new antenna) the tower's capacity, including the type and number of antennae it can accommodate;
    - ii. Certifies compliance of the construction specifications with all applicable building codes (including but not limited to the foundation for the tower, anchors for the guy wires if used, co-location, and strength requirements for natural forces: ice, wind, earth movements, etc.);
    - iii. Certifies that the facility will not interfere with established public safety telecommunication facilities; and
    - iv. Includes the engineer's seal and registration number.
  - b. *Letter of Intent*. A letter of intent committing the tower owner, property owner, antenna owners, and their successors to allow the shared use of the tower.
  - c. *Proof of Compliance*. Copies of any required approvals from the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and all other appropriate state and federal agencies.
  - d. *Removal Affidavit*. A letter committing all parties, including the property owner and his/her successors, to remove the tower and all related accessory structures, fences, landscaping, and equipment if the tower is abandoned (unused for a period of 12 consecutive months). The removal affidavit shall be recorded in York County, with a copy of the recorded affidavit provided to the Fort Mill planning director.
5. Determination of New Tower Need. Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification from a professional engineer licensed in the State of South Carolina that the antenna(s) planned for the proposed tower cannot be accommodated on any existing or approved towers or other structures within a two (2) mile radius of the proposed tower location due to one or more of the following reasons:
- a. *Existing Public Site*. There are no existing publicly owned towers or sites suitable to accommodate the proposed tower or antennas.
  - b. *Inadequate Structural Capacity*. The antenna(s) would exceed the structural capacity of an existing or approved tower or other structure.
  - c. *Interference*. The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site.
  - d. *Inadequate Height*. The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at the height necessary.
  - e. *Land Availability*. Additional land area is not available (when necessary).
6. Design Requirements for new Towers and Related Facilities. All telecommunications facilities shall meet the following design requirements:
- a. *Lighting*. Tower lighting shall only be as required for safety or security reasons or as required by the FAA or other federal or state authority. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties, and shall have 90 degree cut-off luminaries (shielded down lighting).
  - b. *Co-Location*. All telecommunication towers shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's equipment and at least one (1) additional user for every 50 feet in total tower height in excess of 75 feet.
    - i. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.
    - ii. Towers must be designed to allow for rearrangement of antennas and to accept antennas mounted at varying heights.

- c. *Height.* All towers and antenna shall conform to FAA tall structure requirements. The maximum height of accessory structures shall be 15 feet.
    - d. *Signs.* Signs for all telecommunications facilities shall be permitted up to a total of four (4) square feet per user and mounted on the fence.
  7. Site Requirements for new Towers and Related Facilities. All telecommunications facilities shall meet the following site requirements:
    - a. *Vehicular Access.* Vehicle access drives may be gravel or paved and shall be located within an access easement that is a minimum of 20 feet in width. Any portion of the entrance located in a public right-of-way shall meet the applicable public street design, construction, and pavement requirements for the Town of Fort Mill.
    - b. *Site Area.* The lot (or lease area) where the tower is located shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users. The size of the site shall also be of sufficient area to allow the location of one additional tower and associated support facilities.
      - i. The arrangement of the initial tower and the topography of the site shall be considered in determining the sufficiency of the site area.
      - ii. At a minimum, the width and depth of the tower site shall be a distance equal to the tower height. The tower shall be placed within the property so it is no closer to any lot line than one-half (½) the tower height.
      - iii. All tower supporting and stabilizing wires shall be located within the site area.
    - c. *Setback.* The required setbacks for the tower and related facilities shall be as follows:
      - i. Side and rear setback. The minimum side and rear setback for all facilities, including the security fence, shall be 25 feet.
      - ii. Front setback. The minimum front setback for all facilities shall be as specified by this ordinance for the zoning district in which it is located. No part of a wireless telecommunications facility, including the security fence, and any required guide wires or bracing shall be permitted in the required front setback.
      - iii. Additional setback from residential districts. No facility shall be placed closer than one and one-half (1½) times the total height of the tower or 200 feet, whichever is greater, to any property included in a residential district.
      - iv. Additional landscaping. Landscape screening, in addition to the requirements of this section, may be provided in the setback area.
    - d. *Encroachment.* No part of any telecommunications facility nor associated lines, cables, equipment, wires or braces shall at any time extend across or over any part of a public right-of-way, sidewalk, or property line.
    - e. *Fencing.* An eight (8) foot high security fence shall completely surround the tower and accessory equipment building site. Any deterrents, such as barbed wire, shall be at least eight (8) feet above grade.
      - i. Required landscape screening, as described in subparagraph 8, shall be located outside of the required fence.
      - ii. If located within a residential district, the required security fence enclosing the facility shall be 100 percent opaque and of wood, brick, or stone construction. Opaque, eight (8) foot tall gates shall be provided for access. In no instance shall the use of chain link fencing or gates with screening inserts be considered as opaque.
  8. Landscape Screening. Evergreen buffer plantings shall be located and maintained around the outermost perimeter of the security fence of all wireless communications facilities. The landscape plan for the site shall provide plants in a number and design to provide a screen of the fence, all equipment and the base of the tower, as determined by the Planning Commission.

- a. If evergreen shrubs are used they shall be planted a maximum of five (5) feet apart on center.
- b. If evergreen trees are used they shall be planted a maximum of 10 feet apart on center.

## **Section 8.13 Specific Use Requirements- Vehicle Sales, Service and Related Uses**

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### **A. Auto, Trailer, Truck, RV, Manufactured Home, Motor Cycle Sales and Service.**

1. The minimum lot size shall be one (1) acre with a minimum lot width of 200 feet.
2. Signs shall conform to the requirements of **Article XII**. Flags, pennants, balloons, ribbons, strings of lights or other distracting devices are not permitted.
3. Temporary or portable structures are not permitted.
4. Outdoor display shall conform to the following:
  - a. Vehicles, for sale or otherwise, shall be parked on approved hard surfaces.
  - b. Vehicle display areas shall not be located within any required greenbelt or buffer area, as specified in **Article XI**, and outside of public rights-of-way.
  - c. Vehicle display or storage shall not be allowed in areas required for visitor, employee or service parking.
  - d. All other merchandise available for sale, including, but not limited to, clothing, accessories, tires, collectibles etc. shall be sold and displayed within an enclosed building.
5. All service work, including vehicle washing, repair and general maintenance, shall be entirely conducted within an enclosed building.
6. Audible paging systems or outdoor speakers are not permitted.
7. The use of spotlights is prohibited.

### **B. Drive-through Facilities for Automated Teller Machines, Banks and Pharmacies.**

1. Stacking space for at least four (4) vehicles shall be provided at each window or machine.
2. Stacking spaces shall be located so as not to interfere with vehicular circulation, parking spaces and egress from the property by vehicles not using the drive-through portion of the facility.
3. Public access to the site shall comply with the driveway spacing standards of **Section \*\*\*** but, in no case, be located closer than 125 feet to any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the driveway.
4. Internal circulation and access to/egress from the site shall not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.

### **C. Vehicle Repair, Major.**

1. All main and accessory structures shall be set back a minimum of 75 feet from any residential or mixed use district.
2. There shall be a minimum lot frontage of 100 feet on an arterial or collector street; and all access to the property shall be from that street.
3. Access to the site shall comply with the driveway spacing standards of **Section \*\*\*** but, in no case, be located closer than 125 feet to any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the driveway.
4. A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
5. Overhead doors shall not face a public street or residential or mixed use district. The planning director may modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be diminished through use of building materials, architectural features and landscaping.
6. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two vehicles.
7. All maintenance and repair work shall be conducted completely within an enclosed building.

8. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
9. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle, except a tow truck, shall be permitted up to 30 days in a designated area. Such area shall be appropriately screened from public view in accordance with the screening requirements of [Section 11.3](#).
10. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the fire department and town engineer.

#### D. Vehicle Repair, Minor.

1. A building or structure shall be located at least 40 feet from any side or rear lot line abutting a residential or mixed use district.
2. Access to the site shall comply with the driveway spacing standards of [Section \\*\\*\\*](#) but, in no case, be located closer than 125 feet to any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the driveway.
3. Equipment, including hydraulic hoists, pits, and lubrication, greasing, and other automobile repairing equipment shall be located entirely within an enclosed building. Outdoor storage or display of merchandise, such as tires, lubricants and other accessory equipment is not permitted.
4. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle, except a tow truck, shall be permitted only in a designated area. Such area shall be appropriately screened from public view in accordance with the requirements of [Section 11.3](#).
5. All activities shall occur inside a building. No vehicle may be stored on the property for more than 30 days.
6. Storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gas above ground shall not be permitted.
7. Floor drains shall not connect to the sanitary sewer system.
8. There shall be a minimum lot frontage of 75 feet on an arterial or collector street; and all access to the property shall be from that street.
9. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the fire department and town engineer.
10. If the use includes fuel sales, the requirements for a vehicle service station shall also be met.

#### E. Vehicle Service Station.

1. There shall be a minimum lot area of one (1) acre and minimum lot width of 150 feet on an arterial street.
2. Access to the site shall comply with the driveway spacing standards of [Section \\*\\*\\*](#) but, in no case, be located closer than 125 feet to any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the driveway. Driveways or curb openings shall be located at least 100 feet from any adjacent residential or mixed use district boundary line.
3. Only one (1) driveway shall be permitted from any street, unless the planning director determines additional driveways will be necessary to ensure safe and efficient access to the site.
4. Pump islands shall be a minimum of 30 feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least 15 feet from any lot line.
5. The edge of overhead canopies shall be set back at least 20 feet from the right-of-way and shall be constructed of materials consistent with the principal building. The proposed clearance of any

canopy shall be noted on the development plan. All signs, logos, or identifying paint scheme shall be in accordance with [Article XII](#). The canopy shall not exceed 18 feet in height. Lighting in the canopy shall be recessed, fully shielded, and directed downward to prevent off-site glare.

6. The intensity of lighting within a site shall meet the requirements of [Section \\*\\*\\*](#).
7. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the fire department and town engineer.
8. In the event that a gasoline station use has been abandoned or terminated for a period of more than 12 months, all underground gasoline storage tanks shall be removed from the premises, in accordance with state requirements.
9. A vehicle service station may be combined with other uses, such as convenience store, vehicle wash, and/or restaurants; provided all relevant requirements are met and the most restrictive requirements applicable to any single use shall apply. Parking requirements may be modified, as provided in [Section 10.2 D](#). Signs shall comply with the standards for business centers in [Section \\*\\*\\*](#).

**F. Vehicle Wash Facility.**

1. All washing activities must occur inside a building.
2. Required stacking spaces for waiting vehicles shall not be located within a public or private right-of-way and shall not conflict with maneuvering areas, parking spaces and other activities. Stacking lanes shall be designed to prevent vehicle queues from extending beyond the property.
3. Wastewater must be recycled, filtered or otherwise cleansed to minimize discharge of soap, wax and solid matter into public sewers.
4. Only one (1) driveway shall be permitted from any street, unless the planning director determines additional driveways will be necessary to ensure safe and efficient access to and egress from the site. Access to the site shall comply with the driveway spacing standards of [Section \\*\\*\\*](#) but, in no case, be located closer than 125 feet to any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of the driveway. Driveways or curb openings shall be located at least 100 feet from any adjacent residential or mixed use district boundary line.
5. For automated drive-through wash facilities, a by-pass lane is required that allows by-passing waiting vehicles.
6. Overhead doors shall not face a street, except as approved by the planning director in these circumstances:
  - a. When the doors of a through-garage are located at the front and rear of a building; or
  - b. When a garage is located on a corner or through lot; or
  - c. When determined that a rear garage door would negatively affect an abutting residential use or district.
7. A vehicle wash facility building and any accessory buildings and uses, including vacuums, shall be located at least 100 feet from a street right-of-way line and any residential or mixed use district boundary.
8. The property owner or operator must comply with all local noise regulations. Air handling equipment shall be located on a roof, be equipped with intervening noise reduction baffles and be in proper working condition.

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**Section 8.14 Specific Use Requirements - Other**

- A. Temporary Uses and Buildings.** Temporary principal or accessory buildings, structures, uses and special events may be permitted, subject to the following conditions:

1. Temporary Construction, Buildings, Structures, and Uses.
  - a. Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste, or fuel facilities, related to construction activity on the same lot.
  - b. No temporary building or structure shall be used for dwelling purposes.
  - c. The placement of temporary buildings and structures shall be in conformance with the requirements of *Article XIV, Development Plan Review*. A building permit for such building or structure shall be issued prior to installation.
  - d. Temporary buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the administrator for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on such lot.
2. Temporary Uses, Seasonal, and Special Events. Temporary uses and seasonal or special events may be allowed in any district upon issuance of a permit by the administrator, when meeting the standards listed below:
  - a. Temporary uses, seasonal, and special events may be allowed on any lot with a permitted principal building.
  - b. Temporary uses, seasonal, and special events may be allowed on a vacant lot when providing the minimum setback for all buildings, structures, and parking required for the appropriate zoning district.
  - c. In no case shall the setbacks for any buildings, structures or parking be less than 10 feet except in the DC district.
  - d. The temporary use, seasonal, and special event must not prevent the continued use of sidewalks, rights-of-way, fire lanes, etc.
  - e. If the petitioner is not the owner of the property, the petitioner shall provide written permission of the owner of the property to allow such an event prior to beginning such temporary use, seasonal, and special event.
  - f. A minimum of one (1) parking space shall be provided for each 800 square feet of gross lot area used for the activity (not including storage areas) plus additional parking space for any structure utilized for retail sales computed in accordance with the parking requirements for retail stores.
  - g. A sketch plan (to scale) shall be provided illustrating:
    - i. Property lines.
    - ii. Adjacent uses and zoning districts.
    - iii. Existing and proposed buildings and structures.
    - iv. Location of any areas for storage such as inventory not being displayed.
    - v. Fire hydrants.
    - vi. Parking layout.
    - vii. Boundaries of proposed sales areas.
    - viii. Location and size of any proposed sign (off-premise signs shall not be permitted).
  - h. All equipment, materials, goods, poles, wires, signs, and other items associated with the temporary use shall be removed from the premises within two (2) days of the end of the event.
  - i. The length of a temporary use or special event shall not exceed seven (7) days, except seasonal sales of items such as Christmas trees, fireworks and pumpkins which are permitted for up to 45 days.
  - j. Two (2) temporary use permits are permitted per calendar year for a temporary use, seasonal, or special event on a single property.

- k. Special standards for carnivals, circuses, farmers markets, flea markets, and similar events shall be as follows:
  - i. Such uses shall be approved by the town council which shall consider the intensity of the proposed use in relation to adjacent land uses and sufficiency of parking. The town council may require site improvements, such as fencing, increased setbacks, and restricted hours of operation to help ensure compatibility with surrounding land uses.
  - ii. The applicant shall provide information establishing that a reasonable amount of liability insurance coverage is carried, as determined by the town's insurance carrier.
  - iii. The sketch plan for the event shall include a description of traffic flow and parking management to ensure safe and efficient traffic operations without creating unreasonable congestion on nearby roads.
  - iv. Farmer's markets which are to occur on a regular schedule shall be permitted only in Non-Residential Districts. The town council may extend the time period for the temporary use permit so that a separate permit is not required for each event within any one (1) calendar year, provided, the number of dates and a schedule shall be established at the time of application and all conditions and requirements of the town council shall remain in force.
3. Review Procedures. Except as otherwise noted above for carnivals, circuses, farmers markets, and similar events, the planning director shall review and approve all requests for a temporary use or seasonal event. Where appropriate, the planning director shall consult with the Police Chief and Fire Department official. If the request is denied, the administrator shall state the reasons for denial in writing and provide a copy to the applicant.