



# ZONING ORDINANCE OF THE TOWN OF CONNELLY SPRINGS, N.C.

Prepared by:

WESTERN PIEDMONT COUNCIL OF GOVERNMENTS  
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## ARTICLE I

### PURPOSE AND AUTHORITY

For the purpose of promoting the health, safety, and the general welfare of the community, an ordinance regulating the uses of buildings, structures and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures, the density and distribution of populations; creating districts of said purposes, and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of said board; repealing conflicting ordinances; and for other purposes pursuant to the authority granted by the General Statutes of North Carolina, Chapter 160-A, Article 19, Part 3.

## ARTICLE II

### SHORT TITLE

This Ordinance shall be known as the "Zoning Ordinance of the Town of Connelly Springs, North Carolina" and may be referred to as the "Zoning Ordinance," and the map which is identified by the title "Official Zoning Map, Connelly Springs, North Carolina," may be known as the "Zoning Map."

## ARTICLE III

### ENACTMENT CLAUSE

The Board of Alderman of the Town of Connelly Springs, in pursuance of the authority granted by the General Statutes of North Carolina, particularly N.C.G.S. 160D-200, hereby ordains and enacts into law the following Articles and Sections.

## ARTICLE IV

### ZONING INTERPRETATION AND APPLICATION

Section 40. Interpretation and Application. In interpreting and applying this Ordinance, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purposes of the Ordinance. Except as herein provided, this Ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easements, covenants, or other agreements between parties. Whenever the provisions of this Ordinance impose greater restrictions upon the use of the land or buildings or upon the height of buildings or require a larger percentage of lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits or any easements, covenants or other agreements between parties, the provisions of this Ordinance shall govern, except as provided in Article XV of this Ordinance.

41. Compliance with Ordinance. No land, building, or structure shall be used, no buildings or structure shall be erected, and no existing building or structure shall be moved, added to, enlarged or altered except in conformity with this Ordinance.

42. Zoning Jurisdiction. The provisions of this Ordinance shall be applicable to all property within the corporate limits of the Town of Connelly Springs.

43. Bona Fide Farms Exempt. This Ordinance shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm and its related uses.

44. Zoning of Annexed Areas. Any areas annexed into the Town of Connelly Springs shall, immediately upon such annexation, be automatically classified as one of the zoning districts listed in Article VIII upon recommendation by the Planning Board, and following the notifications and public hearings as required by the N.C. General Statutes.

## ARTICLE V

### PROVISIONS FOR OFFICIAL ZONING MAP

Section 50. Official Zoning Map. The districts established in Article VII of this Ordinance as shown on the Official Zoning Map which, together with all explanatory matter thereon, are hereby adopted as part of this Ordinance.

50.1 Identification of Official Zoning Map. The Official Zoning Map shall be identified by signature of the Mayor, and attested by the Town Administrator. The Zoning Map shall be maintained for public inspection in the office of the Town Administrator. The maps may be in paper or a digital format approved by the Town (G.S. 160D-105).

## ARTICLE VI

### DEFINITION OF TERMS

Section 60. Interpretation and Definition of Certain Terms and Words. For the purpose of interpreting this Ordinance, certain words or terms and herein defined. Unless otherwise stated, the following words shall for the purpose of this Ordinance have the meaning herein indicated.

- a. Words used in the present tense include the future tense.
- b. Words used in the singular tense include the plural and words used in the plural number include the singular.
- c. The word "person" includes a firm association, organization, partnership, corporation, trust and company, as well as an individual.
- d. The word "lot" includes the word "structure."
- e. The word "building" includes the word "structure."
- f. The word "shall" is mandatory, not directory.
- g. The words "used" or occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged or designed to be used or occupied."

#### 60.1 Definitions.

60.11 Accessory Use. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. A swimming pool is considered an accessory use. A manufactured home is not considered an accessory use.

60.12 Administrative Decision. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

60.13 Alley. A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

60.14 Billboard. An outdoor structure or display, pictorial or otherwise, either freestanding or attached to a building, which advertises or attracts attention to a business, commodity, service or other activity conducted, sold or offered elsewhere than on the premises on which said sign is located.

60.15 Boarding House. A building where, for compensation, lodging and/or meals are provided for not more than ten (10) persons.

60.16 Buffer Strip. A buffer strip as required by certain sections of this Ordinance shall be one of or equal to the following:

- a) A six-foot high wood, basket weave type fence;
- b) A six-foot high solid picket type fence with the pickets being placed facing the adjoining property;
- c) A six-foot high chain link type fence with panel inserts;
- d) A six-foot high, open type fence with evergreen vegetation planted facing the adjoining property and completely blocking the view from one area to another;
- e) A six-foot high masonry wall;
- f) Additional suitable landscaping as determined by the Town Mayor. This landscaping may include existing vegetation.

Each application for a zoning permit or certificate of occupancy for those use districts where a buffer is required shall include information as to the location and type of buffer to be erected. In some instances a fence or wall may be required by the Planning Board. Once the buffer strip is erected, it shall be properly maintained.

60.17 Building. Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattels.

60.18 Building, Accessory. A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building, and located on the same lot therewith. A manufactured home is not considered an accessory building.

60.19 Building Height. The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof.

60.20 Building, Principal. A building in which is conducted the main or principal use of the lot on which said building is situated.

60.21 Building Setback Line. A line establishing the minimum allowable distance between the nearest portion of any building (excluding the outermost three feet of any uncovered porches, steps, eaves, gutters, and similar fixtures), and the street or highway right-of-way line when measured perpendicularly thereto.



- 60.22 Business Sign. A sign which directs attention to goods, commodities, products, services, or entertainment sold or offered upon the premises where the sign is located.
- 60.23 Cellar. A story having more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement.
- 60.24 Clinic. An establishment where patients are admitted for special study and treatment by one or more licensed practitioners in medically related arts.
- 60.25 Condominium. A system of separate ownership of individual units in multiple-unit building.
- 60.26 Customary Home Occupation. Any use conducted entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display, no outside storage, no stock-in-trade nor commodity sold on the premises; provided further that no person not a resident on the premises is employed in connection with the activity, except that not more than two assistants may be employed by the following occupations: physician, dentist, attorney, chiropractor, veterinarian. Such occupation shall be carried on solely within the main dwelling and shall not occupy more than twenty-five percent (25%) of the total floor space of the dwelling.
- 60.27 Day Nursery. An agency, organization, or individual providing daytime care of six or more children not related by blood or marriage to, or not the legal wards or foster children of the attendant adult.
- 60.28 Determination. A written, final, and binding order, requirement, or determination regarding an administrative decision.
- 60.29 Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.
- 60.30 Development. Unless the context clearly indicates otherwise, the term means any of the following:
- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
  - b) The excavation, grading, filling, clearing, or alteration of land.
  - c) The subdivision of land as defined in G.S. 160D-802.

- d) The initiation or substantial change in the use of land or the intensity of use of land.
- 60.31 Development Approval. An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.
- 60.32 Development Regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.
- 60.33 Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.
- 60.34 Dwelling Unit. A building or portion thereof designed, arranged or used for permanent living quarter for one family. The term "dwelling unit" shall not be deemed to include a motel, hotel, tourist home, recreational vehicle/camper or other structure designed for transient residence. (Amended 3/5/01)
- 60.35 Dwelling, Single-Family. A building designed for and containing one dwelling unit.
- 60.36 Dwelling, Two-Family. A building designed for containing two dwelling units.
- 60.37 Dwelling, Multi Family. A building designed for and containing three or more dwelling units.
- 60.38 Evidentiary Hearing. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.

- 60.39 Family. One or more blood or marriage related persons or five or fewer unrelated persons occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boarding house or hotel as herein defined.
- 60.40 Family Care Home. A home licensed by the North Carolina State Department of Human Resources with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons defined by the State of North Carolina. Such family care homes shall not be within a one-half mile radius of an existing family care home or group home as measured from property line to property line. This definition shall also include the term Group Home.
- 60.41 Grade. An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
- 60.42 Gross Floor Area. The total floor area of all buildings in a project including basements, mezzanines and upper floors exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.
- 60.43 Group Camp. A camp providing camping facilities for ten (10) or more people.
- 60.44 Group Multi-family Development. A type of combined multi-family development of two (2) or more multi-family buildings or three (3) or more duplexes, established on a single development tract, having unified design of buildings and coordinated organization of open space and service areas, and developed in accordance with an approved site plan.
- 60.45 Heliports. A landing and takeoff place for a helicopter.
- 60.46 Junkyard. The use of more than 200 square feet of the area of any lot for the open storage, keeping or abandonment of junk, including scrap metals, or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or parts thereof.
- 60.47 Kennel. Any location where boarding, caring for or keeping of more than a total of three dogs or cats or other small animals or a combination thereof (except litters of animals of not more than six months of age) is carried on, and also raising, breeding, caring for or boarding dogs, cats, or other small animals for commercial purposes.
- 60.48 Kennel, Noncommercial. Any location where the boarding, caring for and keeping of more than three (3) but not more than ten (10) dogs or cats or other small animals or combination thereof (except litters of animals of not more than

six months of age) is carried on, not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

- 60.49 Legislative Decision. The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of this Chapter.
- 60.50 Legislative Hearing. A hearing to solicit public comment on a proposed legislative decision.
- 60.51 Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.
- 60.52 Lot, Corner. A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance permit.
- 60.53 Lot Coverage. The percentage of a lot which may be covered with buildings or structures, excluding walks, drives, and other similar uses and recreational facilities which are accessory to a permitted use.
- 60.54 Lot Depth. The mean horizontal distance between the front and rear lot lines.
- 60.55 Lot of Record. A lot which is part of a subdivision, a plat or which has been recorded in the office of the Burke County Register of Deeds or a lot described by metes and bounds, the description of which has been so recorded at the County Courthouse.
- 60.56 Lot Width. The distance between side lot lines measured at the building setback line.
- 60.57 Manufactured Home. A manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of forty (40) feet or more in length and eight (8) feet or more in width. It shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development and meet the Appearance Criteria established by Section 96 of this Ordinance. This definition shall also include the term "mobile home."

- 60.58 Manufactured Home Park. Land used or intended to be used, leased or rented for occupancy by two (2) or more manufactured homes which are mounted on wheels, anchored in place by a foundation or other stationary support, to be used for living purposes and accompanied by automobile parking space and incidental utility structures and facilities required and provided in connection therewith. This definition shall not include sales lots on which unoccupied manufactured homes are parked for purposes of inspection and/or sale.
- 60.59 Manufactured Home Stand. That part of an individual lot which has been reserved for the placement of one manufactured home unit.
- 60.60 Modular Home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the N.C. State Building Code), or a series of panels or room sections transported on a truck and erected or joined at the building site.
- 60.61 Motel. A building in which lodging or board and lodging are provided for transient guests and offered to the motoring public for compensation in which ingress and egress to and from all rooms are made primarily direct from an exterior walkway rather than from an inside lobby.
- 60.62 Nonconforming Use. A building or land lawfully occupied by a use that does not conform with use regulations of the district in which it is located.
- 60.63 Nursing Home. A home for the aged or ill persons in which three (3) or more persons not of the same immediate family are provided with food, shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment.
- 60.64 Open Space. Any front, side or rear yards, courts, usable open space provided about a building in order to meet the requirements of this Ordinance.
- 60.65 Open Storage. Unroofed storage area, whether fenced or not.
- 60.66 Parking Space. A storage space of not less than 9 feet by 18 feet for one automobile plus the necessary access space.

- 60.67 Parking Lot. Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition whether for a fee or as a service.
- 60.68 Planned Unit Development (PUD). A form of development characterized by a unified site design for a number of housing units, clustering of buildings and providing common open space, density increased, and a mix of building types. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. The site must include two or more principal buildings. Such development shall be based on a plan which allows for flexibility of design most available under normal district requirements.
- 60.69 Rest Home. A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.
- 60.70 Satellite Dish Antenna. An antenna, six feet in diameter or larger, designed to receive television, radio, and other communication signals primarily from orbiting satellites.
- 60.71 Sewerage System, Public. A system serving two or more connections. Plans for public and community sewer systems must be approved by the Division of Environmental Management, North Carolina Department of Natural Resources and Community Development.
- 60.72 Sewerage System, Individual. An individual septic tank system of sewage disposal. Individual sewage disposal systems must be installed and maintained in accordance with the Division of Health Services, N.C. Department of Human Services, "Rules and Regulations Governing the Disposal of Sewage from any Residence, Place of Business or Place of Public Assembly in North Carolina" and the regulations of the County Board of Health.
- 60.73 Signs. Any form of publicity, visible from any public highway directing attention to an individual activity, business, service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, buildings, or other structures or supports.
- 60.74 Sign, On-Site. A sign which directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached. (See Business Sign, 60.21).

- 60.75 Sign, Off-Site. A sign which directs attention to a business, commodity, activity, service or product not necessarily conducted, sold or offered upon the premises where such sign is located. (See Billboard, 60.13).
- 60.76 Sign Area. Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one side of a double-faced sign shall be considered.
- 60.77 Story. That portion of a building comprised between a floor and the floor or roof next above. The first floor of a two or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.
- 60.78 Street (Road, Lane, Way, Terrace, Drive). A dedicated, recorded and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.
- 60.79 Structure. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.
- 60.80 Structural Alterations. Any change on the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any structural change in the roof, or dimensions or the rooms therein.
- 60.81 Subdivision. For the purpose of this ordinance, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:
- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations.
  - 2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
  - 3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

- 4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.
- 5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes

60.82 Tourist Home. See Boarding House.

60.83 Variance. The term "Variance" shall mean a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

60.84 Water System, Public. Water supply systems serving 10 or more connections are classified as a public water supply by State law. Plans and specifications must be approved by the Sanitary Engineering Section, Division of Health Services, North Carolina department of Human Resources.

60.85 Water System, Semipublic. Water supply systems serving from two (2) to nine (9) connections, inclusive. This system may be regulated by the County Board of Health, and plans should be approved by the Burke County Health Department.

60.86 Water System, Individual. A drilled or bored well or spring which serves a single connection. Individual water supply systems should be located, constructed and operated in accordance with the Division of Health Services, North Carolina Department of Human Resources.

60.87 Yard. An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward.

60.88 Yard, Front. An open space on the same lot with a principal building, between the front line of the building (exclusive of steps) and the front property or street right-of-way line and extending across the full width of the lot.

60.89 Yard, Rear. An open, unoccupied space extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

60.90 Yard, Side. An open, unoccupied space situated between the side line of the building and adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.



60.91 Zoning Enforcement Officer. Town of Connelly Springs official charged with the responsibility of enforcing this Ordinance.

60.92 Zoning Permit. Permit issued by the Zoning Enforcement Officer indicating that a proposed use is in compliance with requirements of this Ordinance.

## ARTICLE VII

### ESTABLISHMENT OF DISTRICTS

Section 70. Use Districts. For the purposes of this Ordinance, the Town of Connelly Springs is hereby divided into six (6) use districts with the designations as listed below:

- |    |     |  |
|----|-----|--|
| 1. | R-1 | Residential Low Density District       |
| 2. | R-2 | Residential Medium Density District    |
| 3. | R-3 | Residential High Density District      |
| 4. | H-B | Highway Business                       |
| 5. | G-M | General Manufacturing                  |
| 6. | N-B | Neighborhood Business (Amended 4/5/05) |

Section 71. District Boundaries Shown on Map. The boundaries of the districts are shown on the map accompanying this Ordinance and made a part thereof entitled "Official Zoning Map, Connelly Springs, North Carolina." The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described as set forth herein. The zoning map properly attested is posted at the Connelly Springs Town Hall and is available for inspection by the public.

Section 72. Due Consideration Given to District Boundaries.

In the creation of this Ordinance of the respective districts, careful consideration is given to the general suitability of each and every district for the particular uses and regulations applied thereto, and the necessary and property grouping and arrangement of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the Town. The Zoning Map shall be maintained for public inspection in the office of the Town Administrator. The maps may be in paper or a digital format approved by the Town (G.S. 160D-105).

Section 73. Rules Governing Boundaries. Where uncertainty exists as to the boundaries of any aforesaid districts as shown on the zoning map, the following rules shall apply (Such uncertainty shall be determined by the Board of Adjustment):

- 73.1 Where district boundaries are indicated as approximately following the centerline of streets or highways, railroad right-of-way lines or such lines extended, such centerlines, street lines, or railroad right-of-way lines shall be construed to be such boundaries.
- 73.2 Where District boundaries are so indicated that approximately follow lot lines, such lot lines shall be construed to be such boundaries.

73.3 Where District boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimension shall be determined by use of the scale shown on said map.

73.4 Where a District boundary line divides a lot in single ownership, the district requirements for the least restrictive portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than thirty-five (35) feet beyond the district boundary line. The term "least restrictive" shall refer to zoning restrictions, not lot or tract size.

Section 74. Minimum Lot Area. (Amended 10-2-06)

74.1 Within zoning areas permitting single family residential uses, minimum lot areas shall adhere to the requirements in Table 74-1 Minimum Residential Lot Sizes.

Table 74-1: Minimum Residential Lot Sizes			
Zoning District	NO Public Water or Sewer	EITHER Public Water or Sewer	BOTH Public Water or Sewer
R-1 Residential Low Density	50,000 square feet (1.15 Acres)	40,000 square feet (0.92 Acre)	30,000 square feet (0.69 Acre)
R-2 Residential Medium Density	40,000 square feet (0.92 Acre)	30,000 square feet (0.69 Acre)	25,000 square feet (0.58 Acre)
R-3 Residential High Density	30,000 square feet (0.69 Acre)	25,000 square feet (0.58 Acre)	21,780 square feet (0.50 Acre)

## ARTICLE VIII

### USE REQUIREMENTS BY DISTRICTS

Within the districts indicated on the zoning map, no building or land shall be used, and no building shall be erected or altered which is intended or designed to be used in whole or in part, for any use other than those listed as permitted for that district in this Article.

Section 80.1. R-1 Residential Low Density District. This district is composed of certain quiet, low density residential sections of the community, plus certain open areas where similar residential development appears likely to occur. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of single family residences in the districts and which would be detrimental to the quiet residential nature of the areas included within this district.

The following uses are permitted:

- a. Single Family Dwellings; exclusive of manufactured homes.
- b. Accessory buildings to residential uses. (Amended 3/5/01)
- c. Family Care or Group Home Developments.
- d. Any form of agriculture or horticulture.
- e. Churches, and other places of worship.
- f. Home occupation, as defined in Section 60.25.
- g. Small professional or announcement sign unilluminated not over two (2) square feet in area mounted flat to the main wall of the building, any unilluminated real estate signs not over six (6) feet in area.
- h. Off-street parking.

Special Uses: The following special uses are permitted when authorized by the Connelly Springs Board of Adjustment after said Board holds a public hearing.

- a. Cemeteries.
- b. Fire Stations.
- c. Colleges and schools.
- d. Grounds and facilities for recreational and community center buildings, country clubs, lakes, parks, and similar facilities operated on a non-profit basis.
- e. Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage tanks.

- f. Nursing Homes.
- g. Temporary manufactured homes for medical emergencies according to the provisions of Section 97. (Amended 3/6/00)

Dimensional Requirements:

- a. Minimum required lot area per dwelling unit: See Article VII; Section 74 (Amended 10-2-06)
- b. Minimum required mean lot width: 100 ft.
- c. Minimum required front yard: 50 ft.
- d. Minimum required side yard: 12 ft.  
Side yard abutting a street: 15 ft.
- e. Minimum required rear yard: 35 ft.
- f. Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed 30% of the total lot area.
- g. Height of Buildings: No building shall exceed thirty-five (35) feet.
- h. Location of accessory buildings: No accessory building shall be erected in any required front yard or within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street line, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear.
- i. Corner Visibility: On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of thirty-five (35) feet from their intersection, there shall be no obstruction to vision more than three (3) feet in height above the average center line grade of each street. (Amended 3/5/01)
- j. Off-street parking shall be provided, as required in Article XI, Section 110 of this Ordinance.

Section 80.2. R-2 Residential Medium Density District.

This district is established to provide a quiet, medium density living environment consisting of a single family detached dwellings, two-family dwellings, and modular homes and related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a healthful environment for family life in areas where either or both public water or sewer facilities are available.

The following uses are permitted:

- a. All uses permitted in the R-1 Residential District.
- b. Modular Homes.
- c. Two-family dwellings.

Special uses: The following special uses are permitted when authorized by the Connelly Springs Board of Adjustment after said Board holds a public hearing.

- a. Same as the R-1 Residential District.

Dimensional requirements. Within the R-2 Residential Medium Density District(s), as shown on the zoning map, the following dimensional requirements shall be complied with:

- a. Minimum required lot area per dwelling unit: See Article VII; Section 74 (Amended 10-2-06)
- b. Minimum required lot area for the first dwelling unit, five thousand (5,000) square additional lot area required for the second attached dwelling unit.
- c. Minimum mean lot width: 100 ft.
- d. Minimum front yard: 40 ft.
- e. Minimum required side yard for the principal building: 12 ft.  
Side yard abutting a street: 15 ft.
- f. Minimum required rear yard: 35 ft.
- g. Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed thirty percent (30%) of the total lot area.
- h. Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, of building height in excess of 35 feet.

- i. Location of accessory buildings: No accessory building shall be erected in any required front yard or within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street line, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear.

If a home was constructed prior to December 10, 1996, the effective date of this Ordinance, and due to the location of the home an accessory building cannot meet the above requirements, one accessory building may be constructed in the front yard according to the following provisions:

- 1) The property must be at least three (3) acres in size;
- 2) The accessory building must have a front setback of at least one hundred (100) feet, a side setback of at least ten (10) feet, twenty (20) feet if the property abuts a street, and a setback from the principal use of at least one hundred (100) feet;
- 3) A vegetative buffer must be constructed on at least three (3) sides of the building. The Planning Board may inspect the buffer after it has been planted and require additional trees or shrubs if the accessory building is not adequately screened.

One (1) accessory building in the front yard may be approved administratively. If more than one (1) accessory building is requested in the front yard the applicant must receive approval from the Planning Board. The Planning Board will consider the size of the applicant's property and the size of the accessory buildings in relation to the principal use. (Amended 11/6/200)

- j. Corner Visibility: On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of thirty-five (35) feet from their intersection, there shall be no obstruction to vision more than three (3) feet in height above the average center line grade of each street. (Amended 3/5/01)
- k. Off-street parking shall be provided as required in Article XI, Section 110 of this Ordinance.

Section 80.3. R-3 Residential High Density District.

The R-3 Residential High Density District is established as a district in which the principal use of land is for single-family, two-family, and multi-family residences in addition to modular homes and manufactured homes on individual lots and manufactured home parks. The regulations of this district are intended to provide areas in the community for those persons desiring small residences and multi-family structures in relatively high density neighborhoods. The regulations are intended to prohibit any use, which, because of its character, would interfere with the residential nature of this district. It is expected that municipal water and sewage facilities will be available to each lot in such districts.

The following uses are permitted:

- a. All uses permitted in the R-2 Residential District.
- b. Multi-family dwellings.
- c. Manufactured homes on individual lots subject to the provisions of Article IX Section 96 of this Ordinance.
- d. Manufactured home parks, subject to Article IX, Section 95 and 96 of this Ordinance.
- e. Group Multi-family Developments, subject to conditions under Article X, Section 106 of this Ordinance.
- f. Planned Unit Developments, subject to conditions under Article X, Section 105 of this Ordinance.
- g. Signs: Same as the R-1 Residential district.

Special uses: The following special uses are permitted when authorized by the Connelly Springs Board of Adjustment after said Board holds a public hearing.

- a. All special uses permitted in the R-2 Residential District.
- b. Rooming and boarding houses and tourist homes.
- c. Offices for doctors, dentists, chiropractors, attorneys, accountants, insurance and other such professions.
- d. Family Care or Group Home Developments.

Dimensional requirements: Within the R-3 Residential High Density District(s), as shown on the zoning map, the following dimensional requirements shall be complied with:

- a. Minimum lot area per dwelling unit: See Article VII; Section 74 (Amended 10-2-06)



- b. Minimum required lot area for the first dwelling unit, five thousand (5,000) square feet additional lot area required for the second attached dwelling unit, and three thousand (3,000) square feet additional lot area per attached dwelling unit for each unit in excess of two (2) up to a maximum of eight (8) dwelling units per acre.
- c. Minimum Mean lot width: 75 ft.
- d. Minimum front yard setback: 30 ft.
- e. Minimum required side yard for principal building: 10 ft.  
Side yard abutting a street: 12 ft.
- f. Minimum required rear yard: 30 ft.
- g. Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed thirty (30) percent of the total lot area.
- h. Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one (1) feet for each two (2) feet or fraction thereof of building height in excess of thirty-five (35) feet.
- i. Location of accessory buildings: No accessory building shall be erected in any required front yard or within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street line, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear.
- j. Corner Visibility. On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points of such center lines at a distance of thirty-five (35) feet from their intersection, there shall be no obstruction to vision more than three (3) feet in height above the average center line grade of each street. (Amended 3/5/01)
- k. Off-street parking shall be provided, as required in Article XI Section 110 of this Ordinance.

Section 80.4 H-B Highway Business District. The H-B Highway Business Districts are located on major thoroughfares and collector streets in the Connelly Springs Planning Area. They are intended to provide for offices, personal services, and the retailing of durable and convenience goods for the community. Because these commercial uses are subject to public view and are important to the economy of the community, they should have ample parking, controlled traffic movement and suitable landscaping.

The following uses are permitted:

- a. Animal hospitals or veterinary clinics, but excluding open kennels on the premises.
- b. Assembly halls, coliseums, gymnasiums, and similar structures.
- d. Automobile sales.
- e. Automobile parts and supplies, repair garages, excluding open storage of wrecked vehicles.
- f. Automobile parking lots and structures.
- g. Automobile washing establishments.
- h. Bakeries and other establishments manufacturing prepared foods and miscellaneous food products.
- i. Banks and other financial institutions.
- j. Barber shops and beauty shops.
- k. Billboards (same as in the G-M General Manufacturing District).
- l. Boarding houses and tourist homes.
- m. Boat works and sales.
- n. Building supply and equipment sales.
- o. Bus stations.
- p. Business colleges, barber and beauty colleges, art schools, music and dance studios and similar uses.
- q. Business signs. Signs must be mounted flat with building walls and must not project more than six (6) inches from such walls.
- r. Dairy bars and ice cream manufacturing for retail sales on the premises only.
- s. Dry cleaning or laundry services.
- t. Drug stores, with or without fountains.
- u. Dry goods stores.
- v. Electrical and electronic products.
- w. Electric repair shops.
- x. Fabricating shops, for example, wood products, textiles and metal products. Such establishments shall be limited to ten (10) or fewer employees.
- y. Feed and seed stores.
- z. Florists and gift shops.
- aa. Funeral homes or mortuaries.
- bb. Furniture and household appliance stores.
- cc. Greenhouses or horticultural nurseries.
- dd. Grocery, food, produce, fruit and meat stores.
- ee. Hardware stores.

- ff. Hotels, inns, or motels.
- gg. Jewelry repair shops and opticians.
- hh. Laundromats and similar automatic laundries.
- ii. Libraries, museums and art galleries.
- jj. Locksmiths and gunsmiths.
- kk. Medical and dental clinics and laboratories.
- ll. Newspaper offices.
- mm. Nursery schools and kindergartens, provided that at least 200 square feet of outdoor play area is provided for each child, provided further, that such area shall be enclosed by a sturdy fence at least five (5) feet in height.
- nn. Offices, business, professional and public.
- oo. Office supplies and equipment, sales and services.
- pp. Photographic studios and camera supply stores.
- qq. Plumbing shops, but excluding open storage.
- rr. Printing, publishing and reproducing establishments.
- ss. Radio and TV repair shops.
- tt. Railroad stations.
- uu. Rest and convalescent homes.
- vv. Restaurants.
- ww. Retail establishments such as department, clothing, fabric, variety, floor covering, paint, antique, art goods, gift, music, toy, sporting goods, book and stationery, magazine, candy, tobacco, pet, and hobby and craft stores, but not excluding similar retail outlets.
- xx. Service stations, provided that all gasoline pumps and other stationary equipment shall be located at least twelve (12) feet from any property line, provided further that on all sides where such stations abut residential districts, a six (6) foot high visual barrier and suitable landscaping shall be provided.
- yy. Shoe repair and shine shops.
- zz. Sign painting and fabricating shops.
- aaa. Tailor, dressmaking and millinery shops.
- bbb. Telephone and telegraphic offices.
- ccc. Tire recapping and retreading shops.
- ddd. Trucking terminals.
- eee. Wholesale and warehouse establishments except for the storage of uncured hides, explosives, oil products, gas storage, etc.

Special uses: The following uses are permitted when authorized by the Connelly Springs Board of Adjustment after said board holds a public hearing.

- a. Retail and wholesale establishments not otherwise named herein which come within the spirit or intent of this Ordinance.
- b. Abattoirs, provided they meet State health laws.
- c. Customary accessory uses and structures when located on the same lot as the main structure, excluding open storage.

- d. Bowling alleys and skating rinks, miniature golf courses, riding stables, and other commercial recreational facilities.
- e. Group Business projects, i.e. shopping centers, provided the provisions for Section 108 are complied with.
- f. Drive-in restaurants.
- g. Theaters, drive-in, subject to the following:
  - (1) No part of the theater screen, projection booth, or other building shall be located closer than 500 feet to any residential district nor closer than 50 feet to any property line or public right-of-way; and no parking space shall be located closer than 100 feet to any residential district;
  - (2) The theater screen shall not face a major street or highway; and reservoir parking space off the street shall be provided for patrons awaiting admission in an amount of not less than thirty percent (30%) of the vehicular capacity of the theater.
- h. Wholesale storage of gasoline and oil products, including bottled gas and oxygen, provided the permit is obtained from the Bureau of Fire Prevention as required by the Fire Prevention Code.
- i. Mixed uses, that is, buildings erected for both dwelling and business purposes, provided such buildings shall be furnished with side yards on each side of the building measuring not less than 8 feet in width, provided, however, that this regulation shall not apply to the street side of a corner lot.

Dimensional requirements: Within the H-B Highway Business District, as shown on the zoning map, the following dimensional requirements shall be complied with:

- a. The minimum lot area for the H-B Highway Business District shall be one half acre (21,780 sq. ft.).
- b. The minimum lot width shall be 100 feet.
- c. Fifty (50) feet minimum front yard setback required; off-street parking as required by the Ordinance may be permitted in required yards but shall not be closer than 10 feet from the front property line or any dedicated street or railroad right-of-way line.
- d. The minimum side yard setbacks shall be at least fifteen (15) feet, a side yard of 20 feet is required on the street side of a corner lot. Furthermore, buildings used for residential purposes shall comply with the dimensional requirements of the R-1 Residential District; buildings used wholly or in part for permitted non-residential uses shall meet the dimensional requirements for the use district in which they are located. Furthermore, upon any side or rear lot line which abuts a residential district there shall be a densely planted and maintained buffer strip. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lots, and no buffer shall be required upon any yard which abuts a public street.

- e. The minimum rear yard setback shall be at least thirty (30) feet.
- f. No buildings shall exceed 50 feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, of building height in excess of 50 feet.
- g. The total ground covered by the principal building and all accessory buildings shall not exceed 50% of the total lot area.
- h. Off-street parking and loading shall be provided as required in Article XI, Section 110 of this Ordinance.

Section 80.5 G-M General-Manufacturing. This district provides a place for the location of industrial and other uses which would be inimical or incompatible with general business areas. It is intended to permit in this district any use which is not inherently obnoxious to urban areas because of noise, odor, smoke, light, dust or the use of dangerous materials.

The following uses are permitted.

- a. Any use permitted in the H-B Highway-Business District.
- b. Gasoline, oil or fuel storage above ground, provided that a permit is obtained from the Bureau of Fire Prevention as required by the Fire Prevention Code.
- c. Mixing Plant for concrete or paving materials.
- d. Stone crushing, cutting and polishing.
- e. Storage of materials and equipment outdoors.
- f. Hatcheries.
- g. Manufacture, processing or fabrication of the following products.
  - aa. Animal feeds.
  - bb. Bedding, carpets, and pillows.
  - cc. Clothing, including hosiery.
  - dd. Electrical and electronic products.
  - ee. Foods and food products, including abattoirs.
  - ff. Glass.
  - gg. Household appliances.
  - hh. Ice.
  - ii. Leather goods, not to include processing or storage of raw hide.
  - jj. Machine tools.
  - kk. Metal and metal products.
  - ll. Paints.
  - mm. Paper products, not including the manufacture or processing of paper.
  - nn. Plastics.
  - oo. Pottery, porcelain and vitreous china.
  - pp. Rubber products, not to include the processing or manufacture of rubber.
  - qq. Soap, detergent and washing compounds.
  - rr. Textiles
  - ss. Wholesale storage of gasoline and oil products, including bottled gas and oxygen, provided that a permit is obtained from the Bureau of Fire Prevention as required by the Fire Prevention Code.
  - tt. Furniture industries.
- h. Any lawful retail, repair, or wholesaling use, not specifically referred to in this section.

Signs: Outdoor advertising signs, structures and business signs. Types of signs permitted are: (a) ground sign, (b) wall sign, (c) projection sign, and (d) window sign. The size of outdoor advertising display signs and individual or "one-time" business signs shall not exceed three hundred (300) square feet. Structures allowed for signs are restricted to single structure, back-to-back structure and V-structure. Double panel outdoor advertising signs are specifically prohibited, as are flashing signs. If a single board structure is used, the reverse side of the sign must be painted, otherwise treated so that its color will blend rather than contrast with its background. There must be a minimum of two hundred (200) feet between outdoor advertising signs and any other outdoor advertising signs and the next nearest business sign. The location of any outdoor advertising sign shall be at least twenty-five (25) feet from the street centerline or beyond the public right-of-way, whichever is greater. There shall be no more than one individual or "one-time" business sign oriented to each abutting road identifying the activity.

Special uses: The following special uses are permitted when authorized by the Connelly Springs Board of Adjustment after said Board holds a public hearing.

- a. Manufacturing uses not otherwise named herein which come within the spirit and intent of this Section.

Dimensional requirements: Within the G-M manufacturing district(s) as shown on the zoning map, the following dimensional requirements shall be complied with:

- a. The minimum lot area for the G-M manufacturing district shall be one acre.
- b. The minimum mean lot width shall be 200 feet.
- c. Minimum front yard setback shall be 50 feet.
- d. Minimum of 20 feet required for rear yard setback.
- e. Minimum of 15 feet for side yard on each side of every principal building.
- f. The total ground area covered by the principal building and all accessory buildings shall not exceed forty percent (40%) of the total lot area.
- g. No building shall exceed sixty-five (65) feet in height unless the depth of the front and total width of the side yards herein specified shall be increased by one foot for each two feet or fraction thereof of building height in excess of sixty-five (65) feet.
- h. Off-street parking as required by this Ordinance may be permitted in required yards but shall be no closer than ten (10) feet from the front property line or any dedicated street or railroad right-of-way line.
- i. Screening requirements. Whenever any G-M district rear and/or side property line abuts upon a residential district or site of institutional use with no intervening street or highway or natural buffer, any buildings or parking area used for industrial purposes shall maintain a fifteen (15) feet buffer strip and within a portion of the buffer strip there shall be planted a continuous screen of evergreen plants with an initial height of at least six (6) feet by natural growth within no later than a two (2) year period.

- j. Off-street parking and loading shall be provided as required in Article XI, Section 110 of this Ordinance.

Section 80.6 Neighborhood Business District. The N-B Neighborhood Business District is intended for the use of those businesses and other uses which are properly located near residential areas and which cater to the everyday needs of a limited residential area.

(A) The following uses are permitted:

- (1) Automobile parking lots and structures.
- (2) Automobile washing establishments.
- (3) Banks and other financial institutions.
- (4) Barbershops and beauty shops.
- (5) Boarding houses and tourist homes.
- (6) Bus stations.
- (7) Business colleges, barber and beauty colleges, art schools, music and dance studios and similar uses.
- (8) Dairy bars and ice cream manufacturing for retail sales on the premises only.
- (9) Dry cleaning or laundry pickup stations.
- (10) Drug stores, with or without fountains.
- (11) Dry goods stores.
- (12) Electrical and electronic products.
- (13) Electric repair shops.
- (14) Florists and gift shops.
- (15) Furniture and household appliance stores.
- (16) Grocery, food, produce, fruit, and meat stores.
- (17) Hardware stores.
- (18) Jewelry repair shops and opticians.
- (19) Laundromats and similar automatic laundries.
- (20) Libraries, museums, and art galleries.
- (21) Locksmiths and gunsmiths.
- (22) Medical and dental clinics and laboratories.
- (23) Newspaper offices.
- (24) Offices, business, professional and public.
- (25) Office supplies and equipment, sales and services.
- (26) Photographic studios and camera supply stores.
- (27) Radio and TV repair shops.
- (28) Railroad stations.
- (29) Restaurants.
- (30) Retail establishments such as department, clothing, fabric, variety, floor covering, paint, antiques, art goods, gift, music, toy, sporting goods, book and stationary, magazine, candy tobacco, pet and hobby and craft stores, but not excluding similar retail outlets.
- (31) Service stations, provided that all gasoline pumps and other stationary equipment shall be located at least twelve (12) feet from any property line, provided further that on all sides where such stations abut residential districts, a six (6) foot high



visual barrier and suitable landscaping shall be provided.

- (32) Shoe repair and shine shops.
- (33) Tailor and dressmaking shops.
- (34) Telephone and telegraphic offices.

- Signs: (a) Wall Signs: Wall signs placed against the exterior walls of buildings shall not exceed more than six (6) inches outside of a building's wall surface, and shall not exceed 100 square feet in area for any one premises, and shall not exceed 20 feet in height above the natural ground line)
- (b) Ground Signs: Ground signs not exceeding one per lot shall not exceed 20 feet in height above the natural ground line, shall meet all yard and height requirements for this district and shall not exceed 60 square feet on one side, nor 120 square feet on all sides for any one premises.
- (c) Roof Signs: Roof Signs shall not be permitted
- (d) Window Signs: Window signs shall be places on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.
- (e) Illumination: No flashing or intermittent illumination shall be used on any advertising sign or structure. Only one illuminated sign per business per building is permitted.
- (f) Billboards: Billboards and other off-site signs shall not be permitted.
- (g) Portable Signs: Portable signs shall not be permitted.
- (B) Special Uses: The following uses are permitted when authorized by the Connelly Springs Board of Adjustment after said Board holds a public hearing.
- (1) Retail establishments not otherwise named herein which come within the spirit or intent of this Ordinance.
- (C) Dimensional requirements. Within the N-B District as shown on the zoning map, the following dimensional requirements shall be complied with:
- (1) The minimum lot size shall be 8,000 square feet per unit. However, if the site is located in the WS-IV Protected Area Watershed Protection District and the development activity requires an Erosion and Sedimentation Control Plan, the maximum permissible impervious surface coverage shall not exceed 36% of the total lot area, or 24% of the total lot area if the lot abuts a curb and gutter street system.
- (2) Minimum required lot width: 100 ft.
- (3) Minimum front yard setback: 40 ft.

- (4) Minimum side yard setback: 15 ft.
- (5) Setback when abutting a street: 20 ft
- (6) Minimum rear yard setback: 30 ft.
- (7) Height regulations for buildings and structures in the N-B District hereafter erected or structurally altered to exceed thirty-five (35) feet in height shall be set back from the lot line on the ratio of one foot for each two feet rise above said 35 feet.
- (8) Location of Accessory Buildings: No accessory building shall be erected in any required front or side yard within twenty (20) feet of any street line or within ten (10) feet of a lot line not a street, and provided that in case of a corner lot with reversed frontage, no accessory building shall extend beyond the front yard line of the lots in the rear. Neither shall an accessory building be located closer than (10) feet to the principal structure.
- (9) Off-street parking shall be provided as required in Article XI, Section 110 of this Ordinance.

## ARTICLE IX

### GENERAL PROVISIONS

Section 90. Application. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

Section 91. Reduction of Lot and Yard Areas Prohibited. No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 92. Relationship of Building to Lot. Every building hereafter erected, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one principal building and its customary accessory buildings on any lot of record, except in the case of a specially designed complex of institutional, residential, or commercial buildings in an appropriate zoning district, i.e. school campus, cluster housing, shopping center, and so forth, as permitted by Sections 95, 97, 105, 106 and 108.

Section 93. Nonconforming Uses. After the effective date of this Ordinance, existing structures, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located (if they existed on the adoption date of this Ordinance), shall be considered as nonconforming. Nonconforming structures or uses (as defined in Section 60.52 of this Ordinance) may be continued provided they conform to the following provisions:

#### 93.1 Continuing Nonconforming Uses of Land.

93.11 Extension of Use. The enlargement or extension of nonconforming uses of land are discouraged; however, a nonconforming use of land may be enlarged or extended once with the following provisions:

- a. An application for a special use permit must be filed with the Board of Adjustment and a public hearing held. The application shall include a site plan with sufficient detail of the expansions and any alterations to be made.
- b. Enlargement or alterations may not exceed twenty-five percent (25%) of the original floor area existing at the time of enactment of this Ordinance.
- c. No nonconforming use may be enlarged or altered if the intensity of the current use will be increased substantially, as determined by the Board of Adjustment. In determining whether the degree of intensity is increased, the Board of Adjustment shall consider:
  1. Probable traffic increase of each use.

2. Parking requirements of each use.
  3. Probable number of persons on the premises at a time of peak demand.
  4. Off-site impacts of each use, such as noise, glare, dust, vibration, or smoke and other impacts on surrounding properties or public health and safety.
- d. No such nonconforming use shall be moved in whole or in part to any portion of the lot other than occupied at the time of enactment of this Ordinance.
  - e. Changing from one nonconforming use to another shall not permit expansion more than once.
  - f. All dimensional requirements of the district in which the nonconforming use is located must be met. (Amended 3/5/01)

93.12 Change of Use. Any nonconforming uses of land may be changed to a conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district in question.

93.13 Cessation of Use. When a non-conforming use of land is discontinued for a consecutive period of one hundred eighty (180) days the property involved may thereafter be used only for conforming purposes. (Amended 3/5/01)

### 93.2 Continuing the Use of Nonconforming Buildings.

93.21 Extension of Use. Nonconforming buildings and nonconforming uses may be enlarged provided the provisions of Section 93.11 are met. Additionally, no nonconforming structure or use may be enlarged or altered in anyway which increases its dimensional deficiencies. (Amended 3/5/01)

93.22 Change of Use. The lawful use of a building existing at the time of the adoption of this Ordinance may be continued, even though such use does not conform with the provisions of this Ordinance. Furthermore, such building may be reconstructed or structurally altered and any nonconforming use therein changed subject to the following regulations:

- a. The order of classification of uses from highest to lowest for the purpose of this section shall be as follows: residential district uses, highway-business district uses, general manufacturing district uses, as permitted by this Ordinance.
- b. A nonconforming use may be changed to a use of higher classification but not to a use of lower classification. A nonconforming use may not

be changed to another use of the same classification unless the new use shall be deemed by the Board of Adjustment, after public notice and hearing, to be less harmful to the surrounding neighborhood, than the existing nonconforming use.

- c. A nonconforming commercial or industrial use may not be extended, but the extension of a use to any portion of a building, which portion is at the time of the adoption of this Ordinance primarily designed for such nonconforming use, shall not be deemed to be an extension of a nonconforming use.
- d. A nonconforming building damaged by fire, explosion, tornado, earthquake, or similar uncontrollable cause to the extent of not more than sixty percent (60%) of its assessed value at the time of the damage may be repaired or rebuilt within one year of the date of such damage, but not thereafter. Such determination shall be made by the Board of Adjustment.
- e. Existing single-family residential structures in highway-business or general manufacturing districts may be enlarged, extended or structurally altered, provided that no additional dwelling units result therefrom. However, any enlargements, extensions or alterations shall comply with the dimensional requirements set forth by this Ordinance.

93.23 Cessation of Use. If active operations are discontinued for a continuous period of 180 days with respect to a nonconforming use, such nonconforming use shall thereafter be occupied and used for a conforming use. (Amended 1/4/99)

### 93.3 Continuing the Non-Conforming Use of Manufactured Home Parks.

93.31 Extension of Use. Nonconforming manufactured homes and manufactured home parks existing at the time of adoption of this Ordinance shall not be allowed to expand, increase or bring in another manufactured home to replace an existing or damaged manufactured home unless this nonconforming park is brought up to minimum standards for manufactured home parks outlined in Section 95. Individual manufactured homes on individual lots may be replaced. All replacement manufactured homes, both on individual lots and in parks, must meet the provisions of Section 96.6, 96.7, 96.9, 96.10, 96.11, 96.12, 96.13 and 96.14. Upon replacement, the old manufactured home must be removed from the property within sixty (60) days. (Amended 1/4/99 and 3/5/01)

Section 94. Announcement Signs and Structures. All announcement signs and structures, which include business signs as defined by this Ordinance, shall be approved by the Zoning Enforcement Officer and shall comply with the following regulations:

- 94.1 Location. No advertising sign or structure shall be erected, constructed, or maintained so as to interfere with vision clearance along any street, road or highway or at any intersection or junction of two or more traffic arteries, nor shall any advertising sign or structure be located within the street, road or highway right-of-way.
- 94.2 Illumination. No flashing or intermittent lights are permitted. All illuminated signs or structures shall be placed so as to prevent the light rays or illumination therefrom being cast upon residential dwellings. However, any sign performing a public service function indicating time, temperature, stock market quotations or similar services shall be permitted.
- 94.3 Maintenance. All advertising structures, together with any supports, braces, guys and anchors shall be kept in good repair and in a safe state of preservation. All signs, including political signs, erected to serve temporary purposes shall be removed within 60 days.
- 94.4 Administration. The zoning enforcement officer shall refuse a permit for the erection or construction of any advertising sign or structure which does not meet the requirements of this section. The zoning enforcement officer shall order the removal of any signs that are not constructed or maintained in accordance with the provisions of this section.
- 94.5 Nonconforming Signs. Nonconforming signs will be allowed to remain in good repair, for a period of two years after the adoption of this Ordinance, after which time all signs must conform to the regulations of this Article.

Section 95. Regulations Governing Manufactured Home Parks.

The purpose of these Manufactured Home Park regulations is to provide an acceptable environment for they are in fact small communities of Manufactured Homes.

- 95.1 New Manufactured Home Parks may be located in any R-3 District, subject to a finding by the Board of Alderman that the following conditions will be met:
  - 95.11 Plans clearly indicating the developer's intention to comply with the provisions of this section must be submitted to and approved by the Board of Alderman. Such plans, drawn to a scale of no less than 1" = 200', must show the area to be used for the proposed Manufactured Home Park; the ownership and use of neighboring properties; all proposed entrances, exits, driveways, walkways, off-street parking spaces, and buffer and screening plans; the location of Manufactured Home spaces, recreation areas and service buildings; the location of sanitary conveniences, including toilets, laundries,

and refuse receptacles; the proposed plan of water supply, sewage disposal and electric lighting; indications of how future expansions will be made, if applicable; in the case of irregular topographic features, existing contours and finished contours (by separate map or otherwise). Said map, maps, and plans shall also clearly show the name of the proposed park, proposed street names, and any other features of the park not herein mentioned. The Board of Alderman may, prior to final approval of the proposed development, forward said plans to the Planning Board for its review and recommendations. The Board of Alderman shall have the authority to impose such reasonable conditions and safeguards on the proposed development as it deems necessary for the protection of adjoining properties and the public interest.

- 95.12 The lot area for a Manufactured Home Park shall be at least two acres. All areas to be included in said park shall be clearly shown on the plans required by Subsection 95.11.
- 95.13 Each Manufactured Home in the Manufactured Home Park shall occupy a designated space having at least 6,000 square feet, with a width of at least fifty (50) feet, exclusive of common driveways.
- 95.14 Each Manufactured Home space shall abut a driveway within the park; said driveways shall be graded and surfaced with not less than four (4) inches of crushed stone or other suitable material on a well compacted subbase to a continuous width of twenty-five (25) feet, exclusive of required parking spaces.
- 95.15 Two off-street driveway parking spaces with not less than four (4) inches of crushed stone or other suitable material on a well compacted subbase shall be provided for each Manufactured Home space. Required parking spaces may be included within the 6,000 square feet required for each Manufactured Home space.
- 95.16 At least 200 square feet of recreation space for each Manufactured Home space shall be reserved within each Manufactured Home Park as common recreation space for the residents of the park. Such areas shall, along with driveways and walkways, be adequately lighted for safety.
- 95.17 No Manufactured Homes or other structures within a Manufactured Home Park shall be closer to each other than twenty-five (25) feet, except that storage or other auxiliary structure for the exclusive use of the Manufactured Home may be closer to that Manufactured Home than twenty-five (25) feet.
- 95.18 No Manufactured Home shall be located closer than thirty (30) feet to the exterior boundary of the park, or a bounding street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than forty

(40) feet to the exterior boundary of the park or the right-of-way of a bounding street.

- 95.19 Proposed water supply and waste disposal facilities for each Manufactured Home in the park shall be approved in writing by the Burke County Health Officer or his representative.
- 95.20 Each Manufactured Home space shall be provided with an electrical outlet supplying at least 100-115/220-250 volts; 100 amperes shall be provided for each Manufactured Home space.
- 95.21 Each Manufactured Home space shall be improved to provide adequate support for the placement and tie-down of the Manufactured Home, thereby securing the superstructure against uplift, sliding, rotation and overturning.
- a. The Manufactured Home stand shall not heave, shift or settle unevenly under the weight of the Manufactured Home due to frost action, inadequate drainage, vibration or other forces acting on the structure.
  - b. The Manufactured Home stand shall be provided with anchor and tie-downs such as cast-in-place concrete "dead men," screw augers, arrowhead anchors, or other devices securing the stability of the Manufactured Home.
  - c. Anchors and tie-downs shall be placed at least at each corner of the Manufactured Home stand and each shall be able to sustain a minimum tensile strength of 2,800 pounds.
- 95.22 The park shall have visual separation from all developed properties with a planted screen or buffer strip at least eight feet in height. No such screen shall, however, extend nearer to a street right-of-way than the established building line of adjoining lots.
- 95.23 All manufactured homes brought into a manufactured home park must meet the provisions of Sections 96.6, 96.7, 96.9, 96.10, 96.11, 96.12, 96.13 and 96.14. (Amended 1/4/99 and 3/5/01)

Section 96. Provisions for Individual Manufactured Homes or Mobile Homes. The purpose of these regulations is to promote sound neighborhood development and appearance, protect community property values, and to preserve the integrity and character of neighborhoods. Manufactured Homes or Mobile Homes are permitted on individual lots in the R-3 District subject to the following conditions:

- 96.1 The lot must be recorded as an individual lot.
- 96.2 If municipal utilities are not available, the well and/or septic tank must be approved by the Burke County Health Department.



- 96.3 All yard dimensional requirements for the respective district must be met.
- 96.4 The lot must front a public street and said street frontage will be considered the front of the lot.
- 96.5 Placement of homes: All homes should face the road lengthwise if setbacks allow. No lot shall be subdivided for a manufactured home placement that will not allow for adequate road frontage to place the home lengthwise on the property.
- 96.6 At least two (2) parallel off-street parking spaces shall be provided.
- 96.7 All areas not used for parking, manufactured home or required porches shall be grassed or otherwise suitably landscaped to prevent erosion.
- 96.8 Manufactured Homes may be placed on undeveloped land for temporary purposes incidental to construction or development of property within the Town of Connelly Springs for a period not to exceed 180 days. Extensions may be granted for a period as may be determined by the Board of Alderman, but no longer than construction shall continue. Furthermore, no Manufactured Home shall be placed on land until construction commences not when there is any existing structure or facility on the property which may be suitable or designed for the purpose for which the Manufactured Home is sought to be used. Manufactured Homes may also be used as temporary living quarters in the event of a natural disaster such as fire, flooding, etc, which would render the former residence uninhabitable.
- 96.9 Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white.
- 96.10 A continuous enclosure, unpierced except for required ventilation and access shall be installed. The enclosure may consist of brick or concrete block, or wood, vinyl or metal fabricated for this purpose. Any wood framing for foundation skirting shall be constructed with treated lumber.
- 96.11 All manufactured homes shall have either a deck, porch or a concrete patio. The minimum area is 48 square feet. Permanent stairs shall be constructed at all exterior doors. They shall be self-supporting and anchored securely to the ground. Steps shall not be less than thirty-six (36) inches wide and risers not more than seven and one quarter (7 1/4) inches high with tread proportional to riser so that an easy run is obtained. The width of the tread, including nosing, shall not be less than ten and one-fourth (10 1/4) inches and shall not extend beyond the riser board more than one and one-eighth (1 1/8) inches. Steps exceeding four (4) risers shall have handrails, a minimum of thirty (30) inches high on all open spaces (Amended 7/26/99).

The steps, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance (Amended 7/26/99).

- 96.12 The running lights shall be removed and the hitch shall either be removed or screened with shrubbery.
- 96.13 The pitch of the roof of the manufactured home shall have a minimum rise of three feet for each twelve feet of horizontal run (3 feet and 12 feet) and the roof shall be finished with a type of shingle that is commonly used in standard residential construction. Roofing material must be compatible with the North Carolina State Building Code for residential construction with the area: Class "B" roof or better.
- 96.14 All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.
- 96.15 All standards listed in this subsection must be met prior to issuance of a Certificate of Occupancy.

Section 97. Provisions for Manufactured Homes for Medical Emergencies. (Amended 3/6/00)

The purpose of these regulations is to provide temporary assistance for a person in need of health care or supervision due to disablement or medical condition. The provision is subject to the following:

- 97.1 One (1) singlewide manufactured home on the same single lot as another site built or manufactured home may be permitted as a special use in the R-1, R-2 and R-3 zoning districts after the Board of Adjustment holds a public hearing on the matter as required in Section 135.2. In reviewing the special use, the following requirements must be met:
  - 97.11 Dimensional Requirements: The additional unit shall be located to the rear of the principal residence. The unit shall be located no closer than fifteen (15) feet from any side property line, thirty-five (35) feet from any rear property line, twenty (20) feet from the principal residence and forty (40) feet from the front property line. The lot shall have twenty thousand (20,000) square feet of area for the second unit in addition to twenty-one thousand seven hundred eighty (21, 780) square feet for the principal dwelling unit.
  - 97.12 Setup and Appearance. The manufactured home shall meet each of the setup and appearance requirements of Section 96.2, 96.6, 96.7, 96.9, 96.10, and 96.13 pertaining to individual manufactured homes or mobile homes. The hitch shall be screened with shrubbery.
  - 97.13 A permit shall only be granted to the property owner.

- 97.14 The temporary mobile home shall not be rented or leased at anytime.
- 97.15 The permit shall only be issued in the following cases:
- a. When evidence is submitted that indicates that the inhabitants of the home will be either temporarily disabled, or afflicted with a temporary or terminal medical condition that requires close supervision from owners of the principal structure. The attending physician shall certify the disablement or medical condition in writing.
  - b. Inhabitants of the home must be of immediate blood or step-relationship to the owner of the principal structure involved. For this provision, immediate blood or step- relationship is defined as father, mother, son, daughter, brother, sister, grandfather, grandmother, or step-father, step-mother, step-son, step-daughter, step-brother, step-sister, step-grandfather, step-grandmother.
- 97.16 For the purpose of this Section, temporary shall be determined to be less than one year.
- 97.17 A sketch plan of the property must be submitted to the Board of Adjustment along with the special use permit application. At a minimum, the sketch plan must include the following information:
- a. the size of the property and location of property lines,
  - b. the location of existing and proposed structures,
  - c. existing driveways, roads, right-of-ways and approximate widths,
  - d. the zoning classification and uses of all surrounding property.
  - e. approval from the Burke County Health Department if a septic tank is needed.
- 97.18 Any adverse effect this hardship case may pose to its neighbors or the public health, safety and general welfare shall be a valid reason for denial of this permit. Additionally, the absence or inadequacy of vehicular access and/or developability of the property shall also be a valid reason to deny the permit.
- 97.19 The permit will be valid for one year from the date it is issued. The permit may be renewed on a yearly basis for the duration of the medical condition. In order to renew the permit, a new application must be filed and the Board of Adjustment must hold a public hearing. The Board of Adjustment may renew the permit when substantial evidence is presented that indicates that the hardship still exists. If none is presented, the home must be removed from the site within 60 days. In the event the property owner fails to remove a temporary building after the zoning permit has been terminated, the town shall remove the said temporary building at the

expense of the owner, with the costs of removal, court costs and attorney fees to be assessed against the owner, for which the town may pursue collection in the form of a debt due the town.

## ARTICLE X

### EXCEPTIONS AND MODIFICATIONS

#### Section 100. Lot of Record.

Where the owner of a lot of official record in any residential district at the time of the adoption of this Ordinance or his successor in title does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this Ordinance, such a lot may be used as a residential building site provided, however, that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this Ordinance for district in which such lots are located.

- 100.1 Every lot to be built upon shall abut by at least 35 feet a public street or other public way, and no dwelling shall be placed or built upon a lot which does not abut upon a public street or other public way by the same distance.

#### Section 101. Front Yard for Dwellings.

The front yard requirements of this Ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or in part within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case, the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of 10 feet from the street right-of-way, whichever is greater.

#### Section 102. Height Limitation.

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, observation towers, chimneys, smokestacks, conveyors, flagpoles, masts, aerials and similar structures, except as otherwise noted in the vicinity of airports. (Amended 1/4/99)

- 102.1 Telecommunications Tower Ordinance.

1. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated:

- a. Alternative tower structure shall mean clock towers, sculptures, bell steeples, light poles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.
- b. Pre-existing towers and antennas shall mean any tower or antenna on which a permit has been properly issued prior to the effective date of this Ordinance.
- c. Telecommunications Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for a residential, non-commercial individual use, such as television antennas, satellite dishes or amateur radio antennas.

## 2. General Guidelines and Requirements.

- a. Purpose: Goals. The purpose of this Ordinance is to establish general guidelines for the siting of towers and antennas. The goals of this Ordinance are to: (I) encourage the location of towers in non-residential/non-historical areas and minimize the total number of towers throughout the community, (ii) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; (iii) encourage strongly the joint use of new and existing tower sites, (iv) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal, and (v) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
- b. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses on a G-M or H-B zoned lot. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot size and coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

- c. Inventory of Existing Sites. Each applicant for approval of an antenna and or a tower shall provide to the Zoning Enforcement Officer an inventory of its existing antennas and towers that are within the jurisdiction of the Town of Connelly Springs or within one-half mile of the border thereof, including specific information about the location, height and design of each tower or antenna. Applicants are encouraged to submit an inventory of potential future tower sites within the jurisdiction of the Town of Connelly Springs. The Planning Department may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or other organizations seeking to locate towers or antennas within its jurisdiction; provided, however, that the Zoning Enforcement Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

### 3. Administrative Approvals.

- a. Specific Administratively Approved Uses. The following uses may be approved by the Zoning Enforcement Officer after conducting an administrative review:

- (1) Installing an antenna on an existing tower of any height, including a pre-existing tower and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower;

- (2) Locating any alternative tower structure in a zoning district other than industrial or commercial, that in the judgment of the Zoning Enforcement Officer, is in conformity with the goals set forth in Section 2.a. of this Ordinance;

- (3) Replacing an existing tower which adds no more than 20 feet to the overall height of the existing structure.

- b. Any additional buildings or equipment shall be screened in accordance with Section 60.15 of the Connelly Springs Zoning Ordinance.

### 4. Board of Adjustment Approvals

The following shall be reviewed by the Board of Adjustment upon report of compliance with all Town Codes by the Zoning Enforcement Officer.

- (1) Installing an antenna on an existing structure other than a tower (such as a

building, sign, light pole, water tower, or other free-standing, non-residential structure) that is more than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;

- (2) Installing an antenna on an existing non-residential structure other than a tower (such as a building sign, light pole, water tower, utility pole or other free-standing, non-residential structure) in any commercial or industrial district that is less than fifty (50) feet in height so long as such addition does not add more than twenty (20) feet to the height of the existing structure.
- (3) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or commercial zoning district; provided, however, that such tower shall be set back from any residential lot lines a distance equal to the height of the tower. Engineering certification shall be submitted that states the structure's construction will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result. The following standards of Section 5 of this Ordinance shall be used in deciding applications for approval of new towers in commercial or industrial districts: subsections: a, b, c, d, e, g, i, j, k and m.

#### 5. Telecommunications Towers Special Use Criteria

Communication companies are encouraged to locate telecommunication antennae on or in structures other than a tower. Such structures may include church steeples, transmission line towers, utility/light poles, water towers, etc. Where such facilities are not available, co-location of facilities is encouraged.

When a new tower is proposed to be sited, a determination of whether the location will provide a minimal level of coverage vs. optimal coverage shall be taken into consideration. The following standards shall be used in the approval of the siting of new towers:

- a. Evidence that the applicant has investigated the possibilities for locating the proposed facilities on an existing tower where a minimal level of coverage can be provided. Such evidence shall consist of:
  - (1) Copies of letters sent to owners of all existing towers within a one-mile radius of the proposed site, requesting the following information:
    - i) tower height;
    - ii) existing and planned tower users;
    - iii) whether the existing tower could accommodate the proposed antenna without causing instability or radio frequency interference; and
    - iv) if the proposed antenna cannot be accommodated on the existing tower, an assessment of whether the existing tower could be



structurally strengthened or whether the antenna's transmitters and related equipment could be protected from electromagnetic interference, and a general description of the means and projected cost of shared use of the existing tower.

- (2) A copy of all responses within 30 days from the mailing date of the letter required by subsection 5a(1); and
  - (3) A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.
  - (4) A summary explanation of why the applicant believes that the use of an alternative tower structure is not possible.
  - (5) Provision of sound engineering evidence demonstrating that location in the proposed district is necessary in the interest of public safety or is a practical necessity.
- b. Evidence that the communications tower is structurally designed to support at least one additional user, and the special use application includes a statement that the owner of the tower is willing to permit other user(s) to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. The tower owner may require that such other users agree to negotiate regarding reasonable compensation to the owner from any liability which may result from such attachment. The site plan shall indicate a location for at least one equipment building in addition to that proposed for use by the applicant. Priority for co-location on the proposed tower shall be given to antennas that will serve a public safety need for the community.
  - c. Buffering of the site shall be installed in accordance with Section 60.15 of the Connelly Springs Zoning Ordinance. In order to provide spatial separation and create visual block from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment, and security fencing. Ground buildings located in a residential district may be located outside the buffered area if they are constructed so the exterior appearance of the building has the appearance of a residential dwelling, including pitched roof and frame or brick veneer construction. The applicant shall submit scaled elevations of such buildings to assist in the evaluation of compliance with this appearance criteria. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection.
  - d. The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight feet in height. The tower's guy anchors may be screened or fenced separately in order to comply with the

requirements of this subsection. The tower's guy anchors must be at least ten feet (10) from any property line.

- e. No outside storage shall be allowed on any telecommunication facility site.
- f. Associated buildings located in any residential district shall not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- g. The telecommunications tower shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport. Any lighting shall not project onto surrounding residential property.
- h. The minimum lot size requirement shall be in accordance with the zoning district in which the tower is proposed to be located or the setback requirements of subsection (l), whichever is greater.
- i. The color of the tower shall be neutral, except to the extent required by Federal law, so as to minimize its visual impact.
- j. In order to protect the public from unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation, such as a signed affidavit, indicating that the power density levels do not exceed levels certified by the FCC.
- k. No commercial advertising shall be allowed on the facility's site.
- l. Setback of the base of the tower from all adjacent property lines shall be one foot for each foot in height. This setback may be reduced by the Board of Adjustment upon a finding that failure to grant a setback reduction would have the effect of prohibiting the provision of personal wireless services, that the reduction serves the general intent and purpose of this section and that the reduction will not substantially interfere with or injure the rights of others whose property would be affected by the reduced setback. In no case shall the setback be reduced to less than fifty (50) per cent of the tower height. In no case shall the setback be less than those required for the underlying zoning district. Said setback reductions shall only be allowed upon a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.
- m. The Staff Planner may, for the purpose of issuing a zoning permit for a telecommunications tower, accept a guarantee from the telecommunications tower company that the tower will be removed in accordance with this chapter. Such guarantee shall be in an amount of not less than one hundred percent (100%) of

the estimated cost for removal of the telecommunications tower. This amount shall be determined by the Town Engineer.

- n. The applicant shall present documentation of the possession of any required license by any federal, state or local agency.
- o. The owner of such a structure shall assume complete liability in case of personal or personal property damage.
- p. Application for the permit must include construction drawings showing the proposed method of installation, structural engineering analysis, and site plan depicting structures and plantings on the property and all adjacent properties.

**NOTICE SHALL BE** provided to the Zoning Enforcement Officer when the tower is placed out of service. Towers which are not used for a period of six (6) months or more shall be removed by the owner within 120 days of receipt of notification to that effect.

#### Section 103. Visibility at Intersections.

On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than three feet in height measured from the center line of the street or road shall be placed or maintained within the triangular area formed by the intersecting street or road right-of-way lines and a straight line connecting points on said street or road right-of-way line each of which is 35 feet distance from the point of intersection.

#### Section 104. Relationship of Building to Lot.

Every building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on any lot, except in the case of multifamily residential areas, Group Housing Developments, and planned unit developments in an appropriate zoning district.

#### Section 105. Planned Unit Development.

The planned unit development concept offers developers the possibility of more efficient and flexible methods for developing property, and provides residents of the project with larger open spaces for recreation and other activities properly related to residential uses. The Board of Alderman may approve this form of development in the districts that allow it as a permitted or special use, provided:

- 105.1 Such project is an integrated plan designed for the primary purpose of residential use.

- 105.2 The site for the total project is at least 4 acres and at least 2 principal buildings are included in the plans.
- 105.3 That the total parcel of land is under single ownership or control, and there is reasonable assurance that the project can be successfully completed and maintained, including care and maintenance of all common open space, recreation space, and other common land area.
- 105.4 The preliminary plan for the proposed planned unit development shall first be submitted to the Connelly Springs Planning Board for its review and recommendation to the Board of Alderman. Such recommendations may include, but shall not be limited to, provisions for additional utilities, drainage, landscaping, lighting, and streets and access ways.
- 105.5 The applicant must resubmit the plan to the Planning Board if changes were recommended by the Board of Alderman. If the plan is rejected by the Board of Alderman, the applicant will not receive consideration of the same plan for a period of 12 months. The applicant can, however, appeal to Superior Court.
- 105.6 All principal buildings and accessory buildings or uses abutting the property lines of the project must meet the minimum yard requirement of the district where the project is located for all yards abutting said property lines. All height requirements shall be met for the district where the project is located.
- 105.7 The overall use of the area for buildings shall be no more than 25% of the total land area.
- 105.8 Off-street parking shall be provided at a ratio of two spaces per dwelling.
- 105.9 All streets and parking areas shall be constructed and paved according to the standards of the Town of Connelly Springs.
- 105.10 The procedure for approval of a planned unit development shall consist of the submission of a design plan to the Connelly Springs Planning Board showing how the requirements of Subsections 105.01 through 105.04 above will be met. Following study and recommendations by the Planning Board, the plan must be submitted to the Board of Alderman for final approval. Failure of the Planning Board to act on the plan within 60 days shall constitute a favorable recommendation to the Board of Alderman. An approved project must be started within 12 months after final approval and must be completed within a reasonable time.

Section 106. Group Multi-family Developments.

Group Multi-family developments are permitted subject to the following requirements:

- 106.01 Minimum plot or overall project area ..... 1 acre
- 106.02 Minimum lot area per dwelling.....3,000 sq. ft.
- 106.03 Minimum front yard depth for  
each building ..... 35 ft.
- 106.04 Minimum rear yard depth for  
each building ..... 30 ft.
- 106.05 Minimum side yard depth for  
each building when adjacent  
to street..... 30 ft.  
When adjacent to a private street  
or a side lot line ..... 15 ft.  
When adjacent to another building  
in the project area..... 20 ft.
- 106.06 Minimum between buildings ..... 40 ft.
- 106.07 Maximum area of project covered by  
all buildings..... 30%
- 106.08 Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet or fraction thereof of building height in excess of thirty-five (35) feet.
- 106.09 Off-street parking shall be provided at a ratio of two spaces per dwelling.
- 106.10 A preliminary design layout must be submitted to the Planning board with eight (8) copies for review before the submission of the final design.
- 106.11 A final corrected design shall be approved by the Planning Board before a building permit may be issued. Special conditions may be recommended for the project plan by the Planning Board and planted buffer strips or suitable substitutes may be required when needed to maintain the integrity of the neighborhood. These shall be completed before occupancy will be allowed.
- 106.12 Design standards for dedicated and private streets shall conform to the general requirements and minimum standards of design of the Town of Connelly Springs.

Section 107. Provisions for Satellite Dish Antennas.

Satellite Dish Antennas shall be considered an accessory structure and shall require a zoning permit. They may be located in any district subject to the following conditions:

- 107.1 No designs or advertising shall be painted on the Satellite Dish Antenna except the manufacturer's name, logo, or trademark provided it is a reasonable size and has been applied by the manufacturer.
- 107.2 Satellite Dish Antennas shall not locate or encroach upon existing rights-of-way or required setbacks.
- 107.3 On corner lots, Satellite Dish Antennas shall not be located within the "Sight Distance".
- 107.4 For residential use, Satellite Dish Antennas shall be permitted in the side and rear yards of the lot provided the location of the Satellite Dish Antenna is in compliance with Sections 107.2 and 107.3 of this Ordinance.
- 107.5 For residential use, Satellite Dish Antennas may be located in the front yard or on the roof of the main structure if the following conditions are met:
  - a. The property owner petitions the Board of Adjustment for a variance;
  - b. The petitioner must prove that he cannot get clear reception by locating the Satellite Dish Antenna in the rear or side yards of his lot;
  - c. That the location of the Satellite Dish Antenna will be in compliance with Sections 107.2 and 107.3 of this Ordinance.

Section 108. Provisions for Group Projects (Commercial and Industrial).

In the case of two (2) or more buildings to be constructed on a plot of ground at least two (2) acres not subdivided into the customary streets and lots and which will not be subdivided, the application of the terms of this Ordinance may be varied by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood provided:

- 108.1 Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the Board authorize a use prohibited in the district in which the project is to be located.
- 108.2 The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located.

- 108.3 The distance of every building from the nearest property line shall meet the front, rear and side yard requirements of the district in which the project is located.
- 108.4 The building heights do not exceed the height limits permitted in the district in which the project is located.
- 108.5 If the property lies within or abuts upon a residential district there shall be a buffer along the rear and/or side lines abutting the residential lots in conformance with Section 60.15 of this Ordinance.
- 108.6 All parking, loading and sign requirements are subject to the applicable provisions of the respective zoning districts and other sections of this Ordinance.

Section 109 Provisions for Landlocked Lots (Amended 3/5/01). Existing landlocked lots within the residential zoning district, defined as a lot that does not abut a public street and therefore does not meet the requirements that the lot have a minimum frontage on a public street of thirty-five (35) feet, may nevertheless be developed for one single family dwelling unit if the lot otherwise meets the zoning requirements of the zone in which the lot is located and provided that the lot has a recorded easement of ingress and egress to and from a public street which is appurtenant to the lot and which meets the following requirements:

- 109.1 A private easement with a minimum continuous width of twenty-five (25) feet is acquired from intervening property owners;
- 109.2 An easement with a minimum continuous width of less than twenty-five (25) feet may be permitted only in situations where an easement with a minimum continuous width of twenty-five (25) feet would create a nonconformity with respect to this Ordinance;
- 109.3 The recorded documents creating the easement shall specify that public service, utility and emergency personnel and vehicles shall have freedom of ingress and egress from the landlocked property;
- 109.4 The recorded documents shall also specify that public utilities (water, sewer, electricity, telephone, cable, etc.) may be located within the easement; however, the easement must have a minimum continuous width of forty-five (45) feet in order to obtain public water and sewer if available;
- 109.5 The recorded documents shall include a maintenance agreement specifying the party responsible for maintaining the easement and it's traveled surface;
- 109.6 The easement must have an all weather surface of gravel, concrete or asphalt with a minimum continuous width of ten (10) feet to ensure access of public service, utility, and emergency personnel and vehicles;
- 109.7 Easements existing prior to the adoption of this Ordinance with widths less than twenty-five (25) feet may be used to access landlocked lots provided that such easements abut a dedicated street;

109.8 Subdivision of landlocked parcels will require a publicly dedicated street constructed to State Standards and must meet all requirements of the Town's Subdivision Regulations.



ARTICLE XI

OFF-STREET PARKING AND LOADING

Section 110. Off-Street Parking Requirements.

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street paved parking spaces in the amount specified by this section. Such parking spaces may be provided in a parking garage or properly graded open space.

110.1 Certification of Minimum Parking Requirements.

Each application for a zoning permit submitted to the zoning enforcement officer as provided for in this Ordinance shall include information as to the means of entrance and exit to such space. This information shall be in sufficient detail to enable the zoning enforcement officer to determine whether or not the requirements of this section are met.

110.2 Minimum Off-Street Parking Requirements.

The following off-street parking spaces shall be required:

Residential and Related Uses	Required Off-Street Parking
Any residential use consisting of one or more dwelling units	Two parking spaces for each dwelling unit
Manufactured and modular homes	Two spaced for each modular or manufactured home
Rooming and boarding house	One space for each two quest rooms, plus two additional spaces for the owner or manager
Customary home occupations	In addition to residential as defined in Section 60.25 requirements, one parking space per 100 square feet devoted to the home occupation

Institutional, Public and Semipublic Uses	Required Off-Street Parking
Churches and funeral homes	One space for every four seats in the main chapel
Elementary schools, private schools, and day care	One space for each employee, plus one additional space for visitors
Hospitals	One space for each four patient beds plus one space for every four staff and one space for each hospital vehicle
Libraries	One space for every four seats provided for patron use

Medical offices and clinics	Four spaces for each doctor practicing at the clinic, plus one space for each employee
Places of public assembly, including private clubs and lodges, auditoriums, dance halls, pool halls, theaters, stadiums, gymnasiums, amusement parks, community centers and all similar places of public assembly	One space for each four fixed seats provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly not including fixed seats
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions	One space for each six patient beds, plus one space for each staff or visiting doctor plus one space for each four employees
Apartment complexes for the elderly	One space for each apartment unit

<b>Business Uses</b>	<b>Required Off-Street Parking</b>
Furniture Outlet Showrooms	One space for each 1,000 square feet of gross floor area
Hotels	One space for each two rooms plus one additional space for each five employees
Motels, tourist homes, inns, and tourist courts	One space for each accommodation plus four additional spaces for employees
Offices, business, professional, public, including banks	One space for each 200 square feet of gross floor area
Restaurants	One space for each three seating accommodations, plus one space for each two employees of shift of largest employment
Restaurants, Drive-In	Parking space equal to five times the floor space in the main building
Retail business and consumer service outlets	One space for each 200 square feet of gross floor area
Service stations and car washes	Two spaces for each gas pump plus three spaces for each grease rack or similar facility
Shopping Centers	One space for each 200 square feet of gross floor area

<b>Wholesale and Industrial Uses</b>	<b>Required Off-Street Parking</b>
Wholesale and industrial operations	One space for each two employees at maximum employment on a single shift

110.3 Off-Street Loading and Unloading Space. Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley, or if there is no alley available, then to a street. For the purposes of this section, an off-street loading space shall have a minimum dimension of 12 feet by 40 feet and overhead clearance of 14 feet in height above the alley or street grade.

	<b>Required Off-Street Loading and Unloading</b>
Retail Operations	One loading space for each 5,000 square feet of gross floor area or fraction thereof
Wholesale and industrial operations	One loading space for each 10,000 square feet of gross floor area or fraction thereof

## ARTICLE XII

### ADMINISTRATION AND ENFORCEMENT

Section 120. Zoning Enforcement Officer. It shall be the duty of the Zoning Enforcement Officer to enforce and administer the provisions of this Ordinance.

If the Zoning Enforcement Officer finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures or additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

The Zoning Enforcement Officer or other staff member shall not make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship (G.S. 160D-109).

The Zoning Enforcement Officer may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the city local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (G.S. 160D-403(e)).

Section 121. Zoning Permit Required.

No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot of record for the construction of any building be commenced until the Zoning Enforcement Officer or agent acting on behalf of the Town has issued a zoning permit for such work. Every person obtaining a zoning permit hereunder shall pay a fee as provided in a schedule of zoning permit fees to be adopted by the governing body.

Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Zoning Enforcement Officer may provide their

determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a));

#### Section 122. Application for Zoning Permit.

Each application to the Zoning Enforcement Officer for a zoning permit shall be accompanied by plot plans in duplicate showing:

- a. The actual dimensions of the lot to be build upon,
- b. The size of the building to be erected,
- c. The location of the building on the lot,
- d. The location of existing structures on the lot, if any,
- e. The number of dwelling units the building is designed to accommodate,
- f. The approximate setback lines of buildings on adjoining lots,
- g. The intended use of the property,
- h. The Burke County Tax Map identification number of the property and a copy of the metes and bounds description of the lot of record,
- i. Such other information as may be essential for determining whether the provisions of this Ordinance are being observed.

Vesting. Zoning permits expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law. A site specific plan or planned unit development shall remain vested for a period exceeding two years, but not exceeding five years. A multi-phase development shall remain vested for a period of seven years from the time a site plan is approved. For the purposes of this chapter, a multi-phase development must contain 100 acres or more and is submitted for site plan approval for construction to occur in more than one phase and is a master plan that includes a requirement to offer land for public use (G.S. 160D-108(d)).

Revocation of development approvals. Development approvals may be revoked by the local government issuing the development approval by notifying the permit holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member

may be appealed to the board of adjustment pursuant to G.S. 160D-4-5. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-4-5(e) regarding stays shall be applicable (G.S. 160D-403(f)).

Section 123. Zoning Certificate of Occupancy for New and Altered Structures.

It shall be unlawful to use or permit the use, except for agriculture purposes, of any land, building or structure or part thereof, hereafter created erected, changed, converted, altered or enlarged, wholly or partly, in its use or structure, until a Zoning Certificate of Occupancy shall have been issued by the Zoning Enforcement Officer stating that the building or structure and the proposed use complies with the provisions of this Ordinance. A Zoning Certificate of Occupancy shall be applied for co-incident with the application for a zoning permit and shall be issued within five (5) days after the erection or alteration of such building or structure or part thereof has been completed in conformity with the provisions of this Ordinance and the North Carolina Building Code.

A temporary Zoning Certificate Occupancy may be issued by the Zoning Enforcement Officer for a period not to exceed six (6) months during alterations or partial occupancy of a building pending completion, provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the general public.

The Zoning Enforcement Officer shall maintain a record of all Zoning Certificates of Occupancy and a copy shall be furnished upon request to any person. Failure to obtain a Zoning Certificate of Occupancy shall be a violation of this Ordinance, and punishable under Section 123.03 of this Ordinance. Utilities will not be connected to any property that does not satisfy the requirements for the Certificate of Occupancy.

123.01 Complaints Regarding Violations. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Town Administrator. The Zoning Enforcement Officer shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

123.02 Remedies. In any case in which a building or structure is proposed to be or is erected, constructed, reconstructed, altered, maintained or used; or any land is proposed to be or is used in violation of this Ordinance; the Mayor, Board of Alderman, Town Attorney, or any other person aggrieved may, in addition to other remedies provided by law, institute injunction mandamus, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

123.03 Penalties for Violation. Any person, firm, or corporation who violated the provisions of this Ordinance, shall upon conviction, be guilty of a misdemeanor

and shall be fined not exceeding fifty dollars (\$50.00) or imprisoned not exceeding thirty (30) days. Each day that a violation of this Ordinance is not corrected within thirty (30) days after the notice of said violation has been given shall constitute a separate and distinct violation.

- 123.04 Notices of Violation. When staff determines work or activity has been undertaken in violation of these development regulations a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud (160D-404(a)).

## ARTICLE XIII

### BOARD OF ADJUSTMENT

#### Section 130. Establishment of Board of Adjustment.

A Board of Adjustment is hereby created as provided in Section G.S. 160D-109(d); 302 of the General Statutes of North Carolina. Said Board shall consist of five (5) members and two alternate members to be appointed by the Board of Alderman for the overlapping terms of three (3) years. Initial appointment shall be as follows: Two (2) members for a term of three (3) years, three (3) members for a term of two (2) years, and two (2) members for a term of (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment. The Board of Adjustment shall be separate from the Planning Board, and not more than two (2) people shall serve simultaneously on both Boards. (Amended 7/26/99)

The Board of Alderman of the Town of Connelly Springs may, in its discretion, appoint not more than two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. Such alternate member or members shall be appointed in the same manner as regular members and at the regular times for appointment. Such alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. (Amended 5/1/06)

#### Section 131. Decisions of the Board of Adjustment.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Enforcement Officer pertaining to Connelly Springs or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Ordinance or to effect any variation of such Ordinance in the Town.

On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall fix a reasonable time for the hearing and give due notice thereof to the parties, and shall decide the same within a reasonable time. The Board shall inform all parties involved of its decision in writing, stating the reasons therefore. Members of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the



outcome of the matter. If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.12 (G.S. 160D-109(d), (e), (f)).

### Section 132. Proceedings of the Board of Adjustment.

The Board of Adjustment shall elect a chairman and vice-chairman from its members, each of whom shall serve for one year or until re-elected or until their successors are elected and qualify. This year shall run from July 1 to June 30. The Board shall adopt rules and bylaws in accordance with the provisions of this Ordinance and of Article 3, Chapter 160D of the General Statutes of North Carolina. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall keep a record of all proceedings of meetings. The secretary shall not have a vote unless he is also a regular or alternate member of the Board.

Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision (G.S. 160D-406).

### Section 133. Appeals, Hearings and Notice.

Any person who has standing under G.S. § 160D-102 or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Administrator. The notice of appeal shall state the grounds for the appeal. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to G.S. 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (G.S. 160D-405(d)).

### Section 134. Stay of Proceedings.

An appeal stays all legal proceedings in furtherance of the action appealed from unless the zoning enforcement officer certifies to the Board of Adjustment after the notice of appeal has been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed

otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record an application, on notice to the zoning enforcement officer and on due cause shown.

Section 135. Powers and Duties of the Board of Adjustment.

135.1 Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning enforcement officer in the enforcement of this Ordinance.

135.2 Special Uses: Conditions Governing Application. To grant in particular cases and subject to appropriate conditions and safeguards, permits for special uses as authorized by this Ordinance and set forth as special uses under the various use districts. The Board shall not grant a special use permit unless and until:

135.21 A written application for a special use permit is submitted indicating the section of this Ordinance under which the special use permit is sought. Each special use permit application shall be accompanied by a fee of two hundred dollars (\$200.00) to help defray the costs of advertising the public hearing required by Article 6, Chapter 160D-601 of the North Carolina General Statutes.

135.22 A public hearing is held. Notice of this hearing shall be advertised in a local newspaper of general circulation in the area for a reasonable amount of time prior to the public hearing. This legal notice shall describe the request and appear at least once weekly for two consecutive weeks. All property owners within 100 feet of the property in question shall be notified of this hearing by first class mail.

135.23 The Board of Adjustment finds that in the particular case in question the use for which the special use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will conform to the requirements and spirit of this Ordinance.

135.24 Compliance with other Codes. Granting a special use permit does not exempt the applicant from complying with all of the requirements of building codes or other ordinances.

135.25 Revocation. If at any time after a special use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder

of a special use permit, the permit shall be terminated and the operation of such use discontinued. If a special use permit is terminated for any reason it may be reinstated only after a public hearing is held.

- 135.26 Expiration. In any case where a special use permit has not been exercised within the time limit set by the Board of Adjustment, or within one year if no specific time limit has been set, then without further action, the permit shall be null and void. "Exercised" as set forth in this subsection shall mean that binding contracts for the construction of the main building shall have been let; or in the absence of contracts, that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.
- 135.27 Careful record. A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the zoning enforcement officer.
- 135.28 Minor Modifications. Minor modifications to a special use permit may be administratively approved by the Zoning Enforcement Officer if issues arise after the special use permit has been approved by the Board of Adjustment that keep the applicant from carrying out the strict interpretation of the ruling.

The Zoning Enforcement Officer is authorized to review and approve administratively a minor modification to an approved special use permit. Minor modifications include reconfiguring parking design, changing landscaping or buffering arrangements, or slightly altering road and lot configurations for a development that has already gone through the full approval process, or similar minor modifications subject to the following limitations.

1. General Limitations. The minor modification:
  - i. Does not involve a change in uses permitted or the density of overall development permitted;
  - ii. Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval; and
  - iii. Meets all other ordinance requirements.
2. An adjustment to landscape standards up to 10% percent of required landscaping.

135.3 Variances. Any application for a variance shall be filed with the Town Administrator at least twenty (20) days prior to the date on which it is to be introduced to the Board of Adjustment. The Town Administrator or designated staff member shall be responsible for presenting the application to the Board of Adjustment. Each variance application shall be accompanied by a fee of two hundred dollars (\$200.00) to help defray the costs of advertising the public hearing required by Article 6, Chapter 160D-601 of the North Carolina General Statutes. If a public hearing is not held, said fee shall be refunded to the petitioner.

A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

- 135.31 A written application for a variance is submitted demonstrating:
- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district.
  - b. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - c. That said circumstances do not result from the action of the applicant.
  - d. That granting the variance requested will not confer upon the applicant any special privileges that are denied by this Ordinance to other lands, structures, or buildings in the same district.
  - e. That no nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts will be considered grounds for the issuance of a variance.
- 135.32 Notice of a public hearing shall be given as set forth in Subsection 135.22. At the public hearing, any party may appear in person or by agent or attorney.
- 135.33 The Board of Adjustment shall make findings that the requirements of Subsection 135.31 shall have been met for a variance.
- 135.34 The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance in the minimum one

that will make possible the reasonable use of the land, building or structure.

- 135.35 The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- 135.36 In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 153 of this Ordinance.
- 135.37 Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Section 136. Decision of the Board of Adjustment.

In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or in part, or may modify any order, requirements, decision or determination and to that end shall have the powers of the administrative official from whom the appeal is taken.

Section 137. Duties of the Zoning Enforcement Officer, Board of Adjustment, Courts and Board of Aldermen on Matters of Appeal.

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented to the zoning enforcement officer and that such question shall be presented to the Board of Adjustment only on appeal from the zoning enforcement officer and that from the decision of the Board of Adjustment recourse shall be had to courts as prescribed by law. It is further the intention of this Ordinance that the duties of the Connelly Springs Board of Aldermen in connection with the Ordinance shall not include the hearing and passing upon disputed question that may arise in connection with the enforcement thereof. The duties of the Board of Aldermen in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendments or repeal of this Ordinance.



## ARTICLE XIV

### AMENDMENTS AND CHANGES

#### Section 140. Procedure for Amendments.

A petition for an amendment to this Ordinance and to the Official Zoning Map may be initiated by the Town of Connelly Springs, the Planning Board, any department or agency of the Town of Connelly Springs, the owner of any property within the Town, or any interested citizen who can show just cause for an amendment. Applications submitted by individual property owners or interested citizens who are not acting in an official capacity for the Town of Connelly Springs shall comply with the following procedural requirements.

- 140.1 Application Submission. Any petition for an amendment to the Zoning Ordinance shall be filed with the Town Administrator at least twenty (20) days prior to the date on which it is to be introduced to the Planning Board. Each petition for an amendment shall be accompanied by a fee of two hundred dollars (\$200.00) to help defray the costs of advertising the public hearing required by Article 6, Chapter 160D-601 of the North Carolina General Statutes. If a public hearing is not held, said fee shall be refunded to the petitioner. When a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. (Amended 5/1/06)

Each application involving a change to the Official Zoning Map shall be signed, be in duplicate, and shall contain at least the following information;

- a. The applicant's name in full, applicant's address, address or description of the property to be rezoned, including the tax map number;
- b. The applicant's interest in the property and the type of rezoning requested.
- c. If the proposed change would require a change in the Zoning Map, an accurate diagram of the property proposed for rezoning, showing:
  1. All property lines with dimensions, including north arrow;
  2. Adjoining streets with rights-of-way and paving widths;
  3. The location of all structures, existing and proposed, and the use of the land;
  4. Zoning classification of all abutting property owners;
  5. Names and addresses of all adjoining property owners.

- d. A statement regarding the changing conditions, if any, in the area or in the Town generally that makes the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

140.2 Planning Board Consideration. All proposed amendments to the Zoning Ordinance shall be submitted to the Connelly Springs Planning Board for review and recommendation. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. At the discretion of the Planning Board, a public hearing may be conducted to consider the proposed amendment.

Every proposed amendment, supplement, change, modification or repeal to this chapter shall be referred to the planning board for its recommendation and report (G.S. 160D-604(c), (e)). The owner of affected parcels of land, and the owners of all parcels of land abutting that parcel of land, shall be mailed a notice of the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. Additionally, the town shall prominently post a notice of the public hearing on the site proposed for rezoning the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within twenty-five days prior to the hearing until 10 days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).

The Planning Board shall have thirty-one (31) days from the time the proposed amendment was first considered by the Planning Board to submit its report. If the Planning Board fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment. Members of the Planning Board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (Amended 5/1/06)

140.3 Board of Alderman Consideration. All proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of



referral of the amendment to that board, the governing board may proceed in its consideration of the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the Planning Board.

When adopting or rejecting any zoning text or map amendment, the Board of Aldermen shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Alderman, that at the time of action on the amendment, the Board of Alderman was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the Board of Alderman statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

Before adopting or amending this Ordinance, the Connelly Springs Board of Alderman shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for this hearing (G.S. 160D-601). Any petition for an amendment to this Ordinance may be withdrawn at any time by written notice to the Town Administrator. A member of the Board of Aldermen shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (Amended 5/1/06)

#### Section 141. Protest Petition.

- 141.1 General. The Zoning Ordinance for the Town of Connelly Springs may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the Connelly Springs Board of Aldermen. For the purposes of this subsection, vacant positions on the Board and members who are excused from voting shall not be considered 'members of the board' for calculation of the requisite supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change

or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine the 'owners' of potentially qualifying areas. (Amended 5/1/06)

141.2 Petition Requirements. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) special use district, or (iii) special district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, special use district, or special district. No protest against any change in or amendment to the Zoning Ordinance or Zoning Map shall be valid or effective for the purposes of G.S. 160D-603 unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, unless it shall have been received by the Town Administrator in sufficient time to allow the Town at least two normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. The Board of Aldermen may by ordinance require that all protest petitions be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. 160D-603 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement. (Amended 5/1/06)

ARTICLE XV

LEGAL PROVISIONS

Section 150. Interpretation, Purpose and Conflict. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other Ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern, provided that nothing in the Ordinance shall be construed to amend or repeal any other existing Ordinance of the Town.

Section 151. Town Attorney May Prevent Violation. If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any structure or land is used in violation of this Ordinance, the Zoning Enforcement Officer shall inform the Town Attorney. In addition to other remedies, the Town Attorney may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any illegal act, conduct, business or use in or about the premises.

Section 152. Validity. Should any section or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not effect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 153. Penalties. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance, shall be subject to a fine of fifty dollars (\$50.00) per day.

Adopted this the 10th day of December, 1996.

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Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

SEAL: