

Article IV APPLICATION; GENERAL PROVISIONS; EXCEPTIONS AND MODIFICATIONS

Section 4.1 Zoning Affects Every Building and Use

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, except as hereinafter provided in this Zoning Ordinance.

Section 4.2 Relationship of Buildings to Lot

Every building hereafter erected, moved or placed shall be located on a lot and in no case shall there be more than one (1) principal building on a lot except as otherwise provided for in this Ordinance.

Section 4.3 Street Access

No building, structure or use of land shall be established on a lot nor shall any lot be created that does not abut upon a public street as defined herein to which it has legal access for a distance of not less than forty (40) feet. Provided, the following exceptions shall apply to the access requirement:

- (1) The access requirement shall not apply to lawfully existing lots of record with a minimum of thirty-five (35) feet of frontage on a dedicated but not maintained street.
- (2) The access requirement shall not apply to developments exempt from the public street access by Article VIII.
- (3) The access requirement shall not apply to lots created prior to June 25, 1996 which contain the minimum square footage for the zoning district, have minimum frontage of twenty (20) feet on a recorded easement and said easement provides permanent access between the lot and a maintained public street or a dedicated but not maintained street.

Section 4.4 Lot of Record

Where the owner of a lawfully existing lot of official record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a residential building site, where permitted, provided, however, that the other requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a 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 one or more lots which meet the minimum requirements of this Ordinance for the district in which such lots are located.

Provided the following exceptions shall apply to residential subdivision developments originally created outside the jurisdiction of the City of Kings Mountain and now containing fifty (50) or more individual lots listed for tax purposes and which were either created prior to August 29, 2000 by recorded subdivision plat or subject to homeowner association's covenants created prior to August 29, 2000.

- (1) Lots having less area or width than the minimum requirements of the district in which such lots are located shall not have to be recombined to meet the minimum requirements of this Ordinance for the district in which such lots are located.
- (2) Setbacks may be reduced to the average for each setback for all residentially developed subdivision properties within the subject subdivision.

Section 4.5 Open Space Requirements

No part of a yard, court or other open space provided around any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space required under this Ordinance for another building or structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except as provided for in this section. However, certain accessory structures are permitted to be placed in the required yard area as provided for in the Schedule of District Regulations and this section.

Section 4.6 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 in this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 4.7 Water and Sewer Requirements

The lot sizes required for the various Districts in this Ordinance were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities may require larger lot areas or, in some instances, because of Health Department Standards, not permit development as intended.

Section 4.8 Height Limitation Exceptions

The height limitations of this Ordinance shall not apply to public buildings, churches, temples, schools, hospitals, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power transmission towers, flag poles and similar structures, provided such structures meet the required North Carolina Building Code.

Section 4.9 Building Setback Exceptions

Setback distances shall be measured from the property line or street right-of-way line to the nearest portion of any building, or structure excluding:

- (1) Unenclosed porches attached carports, balconies or decks which do not project into any required yard more than three (3) feet; and
- (2) Chimneys, flues, coves, roof overhangs, window sills and bay windows which do not project into any required yard more than three (3) feet; and
- (3) Patios, drives, walkways, if no portion of the same extends more than twelve (12) inches off the ground; and
- (4) Any structure that is a mere appendage to a building, such as a flagpole, or fountain.

Section 4.10 Fences and Walls

Unless otherwise specified within this ordinance, fences and walls shall be exempt from setback and yard requirements provided they comply with the visibility requirements of subsection 4.15 and the following standards:

(1) Fences and walls in residential districts

- a. No fence or wall located in the required front setback shall be built to a height greater than four (4) feet above grade.
- b. Any fence or wall serving as a retaining wall shall be solid cement, masonry or wood and constructed to the standards of the State Building Code. Retaining walls shall be exempt from the maximum height limits.
- c. The capital of a fence post or column may extend up to two (2) feet above the maximum height limit.
- d. No fence or wall which will block or materially impede the flow of stormwater runoff shall be constructed within a storm drainage easement.
- e. All fences or walls constructed prior to the adoption date of this section shall be allowed to remain subject, however, to the non-conforming provisions of Article XII.

(2) Fences and Walls in Other Districts

- a. No fence or wall located in the required front setback shall be built to a height greater than six (6) feet above grade.
- b. Any fence or wall serving as a retaining wall shall be solid cement, masonry or wood and constructed to the standards of the State Building Code. Retaining walls shall be exempt from the maximum height limits.
- c. No fence or wall which will block or materially impede the flow of stormwater runoff shall be constructed within a storm drainage easement.
- d. All fences or walls constructed prior to the adoption date of this section shall be allowed to remain subject, however, to the non-conforming provisions of Article XII.

Section 4.11 Accessory Buildings and Structures

Accessory buildings and structures shall be exempt from setback and yard requirements provided they are located in accordance with the following requirements.

- (1) Accessory buildings and structures shall not be erected in any required front yard or within twenty (20) feet of any side street on a corner lot.
- (2) Accessory buildings or structures shall not be erected within five (5) feet of any property line not a street line.
- (3) Accessory buildings and structures shall not be erected in the front yard of any double frontage lot as set forth in Section 4.13.

Section 4.12 Corner Lot Yards

On corner lots, the side yard requirements shall apply on any side of the lot not abutting a public street.

Section 4.13 Double Frontage Lots

In all Zoning Districts, Double Frontage Lots shall provide the minimum yard requirements for Front Yards along both street fronts.

Section 4.14 Front Yard Setbacks for Dwellings

For dwellings in residential districts, where lots located on either side of a center lot are improved with buildings having a front yard setback of less than 25 feet, and the structures are no more than 200 feet apart, the required setback of the center lot shall be the average of the setback of the two adjacent main buildings.

Section 4.15 Visibility at Intersections

On a corner lot except in the C-B district, no planting, structure, sign, fence, wall or obstruction to vision greater than a height of 3 feet shall be placed or maintained within the sight triangle described as follows:

Beginning at the corner of intersection points of the curbs (if no curbs exists, use edge of pavement or gravel) of each of the two (2) curbs forming each corner, and extending twenty (20) feet along each curb line from said intersection point, the third side being determined by the drawing of a straight line connecting the two twenty (20) foot extensions.

Section 4.16 Temporary Buildings

Temporary buildings, including mobile structures, incidental to a construction project may be permitted to be used concurrent with the permit for permanent building(s) or construction. Such temporary building shall be removed promptly upon completion of construction. No such building shall be used for dwelling purposes. Temporary buildings shall be located at least 25 feet from any property used for residential purposes.

Section 4.17 Computing the Number of Multi-Family Type Dwelling Units

In computing the number of multi-dwelling type units (including attached units) permitted for a given area of land, subtract the amount of land area in square feet required for the first two dwelling units from the total net land area and then divide the remainder by the amount of land required for each unit over two. The quotient plus two is the number of dwelling units permitted for the given area of land. For example, on a land area of 69,000 square feet located in the R-6 Residential District:

69,000	(Total Net Land)
<u>9,000</u>	(First Two Dwelling Units)
60,000	(Remainder)

60,000 divided by 3,000 (each additional unit) = 20
20 + 2 = 22

Therefore twenty-two (22) multi-family dwelling units may be placed on the 69,000 square-foot property. Fractional units over one-half (1/2) may be rounded to the next higher whole number when the base number of units is twenty (20) or more.

On projects with one building per lot, the computation must be repeated for each lot separately. On projects with more than one building on a lot, the computation need only be made one time.

Section 4.18 Entrances/Exits to Public Streets

Entrances and exits to public streets shall be placed and constructed in accordance with the "Policy on Street and Driveway Access to North Carolina Highways" adopted by the North Carolina Department of Transportation (NCDOT), as amended.

Section 4.19 Projections into Front Yards in Commercial and Industrial Districts

In commercial and industrial districts, open, unenclosed gasoline pump canopies, gasoline filling and related equipment and similar facilities may project into one-half (1/2) the front yard setback requirement for the district.

Section 4.20 Solid Waste Storage Equipment

Any business or industrial establishment abutting a residential zoning district and providing solid waste storage equipment as incidental to the principal use shall locate such equipment to meet the same setback requirement as accessory buildings in the district and shall completely screen any side adjoining residentially zoned property using the screening device provided for in Article XI.

Section 4.21 Outdoor Storage

Except for vehicles for sale and incidental items for retail sale, outdoor storage shall be prohibited in the R-O and O Districts. Any outdoor storage area adjoining residentially zoned property shall be completely screened from the adjoining residentially zoned property using the screening device provided for in Article XI.

Section 4.22 Outdoor Lighting

Outdoor lighting fixtures shall be installed in a manner to protect the street and neighboring properties from direct glare or hazardous interference of any kind.

Section 4.23 Minimum Regulations

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinance, the more restrictive or higher standards shall govern.

Section 4.24 Fees

Applicants for permits and other procedures as provided for by this Ordinance may be required to pay such fees as may be established by the City Council in the Schedule of Fees and Charges.