
Article IX Application of Regulations**Section 9.1 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 Ordinance.

Section 9.2 Lot of Record

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

Section 9.3 Adjoining and Vacant Lots

If two (2) or more adjoining and vacant lots of record are in single ownership at any time after the effective date 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 which meets the minimum requirements of this Ordinance for the district in which such lots are located.

Section 9.4 Division of Lot or Tract

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

Section 9.5 Access to Property

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 to which it has legal access for a distance of not less than twenty (20) feet. The public access requirement shall not apply to land exempt from public street access neither by this Ordinance or the Subdivision Ordinance nor to existing lots of record to which other access is available.

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 a single lot or several lots which meet the minimum requirements of this Ordinance for the district in which such lots are located.

Section 9.6 Open Space Requirement

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 Section 9.18. In addition, certain accessory structures are permitted to be placed in the required yard area as provided for in Section 9.19.

Section 9.7 Water and Sewer Requirements

Except as may be otherwise indicated herein, 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 and that permitted and conditional land uses within each district will be connected to the systems without overtaxing the system.

Section 9.8 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 dwelling unit from the total net land area and then divide the remainder by the amount of land required for each unit over one. The quotient plus one is the number of dwelling units permitted for the given area of land.

For example, on a land area of 80,000 square feet located in the R-8MF Residential District:

80,000 (Total Net Land)

(-) 8,000 (First Dwelling Unit)

72,000 (Remainder)

72,000 divided by 3,000 (each additional unit) = 24

24 + 1 = 25

Therefore twenty-five (25) multi-family dwelling units may be placed on the 80,000 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 9.9 Residential Cluster Development

A. Purpose

The purpose of cluster development is to permit a procedure for development which will result in improved living and working environments; which will promote more economic subdivision layout; which will encourage a variety of types of residential dwellings; which will encourage ingenuity and originality in total subdivision and individual site design; and which can preserve open space to serve recreational, scenic, and public service purposes, and other purposes related thereto, within the densities established for the cluster net tract area. For details on permitting, refer to Article IX, Section 9 (H).

1. Variations in lot areas are permitted.
2. Procedures are established to assure adequate maintenance and restricted use of open space areas for the benefit of the inhabitants of the subdivisions or for dedication to public use.
3. Procedures are established to assure adequate protection of existing and potential developments adjoining the proposed cluster development.

B. Dwelling Types and Acreage

1. Only those types of single-family residential dwellings that are allowed in the R-20 district may be permitted in cluster developments, under a conditional use permit.
2. Cluster developments shall consist of at least five (5) acre tracts, except that cluster developments that are found by the Board of Adjustment to be a logical extension of an existing or approved cluster development, may contain a smaller acreage.

C. Maximum Number of Lots

To determine the maximum number of lots, subtract twenty percent (20%) (the approximate area needed for roadways) from the gross area of land to be developed-divide by the minimum lot size within the R-20 district. Under no circumstances shall the number of lots approved for

clustering be in excess of the number that would have been approved for a traditional subdivision.

D. Board of Adjustment Approval Required

No cluster development may be constructed except in accordance with a Preliminary and then Final Subdivision Plat approved by the Board of Adjustment.

E. Modification of Yard and Lot Requirements

Such modifications or reductions (in the same proportion as the lot size reduction) are permitted so long as they are indicated in the preliminary subdivision plat.

F. Common Space

1. Open Space Standards – At the discretion of the developer, a cluster development may utilize a range of lot sizes not in conflict with Subsection (B) (above) and provided further that the common area shall be held in nonprofit corporate ownership by the owners of the lots within the development. It is suggested that the Town Attorney review for thoroughness the Homeowners Association agreement.

In consideration of the purposes served by a cluster development, the title to such areas as provided shall be preserved to the perpetual benefit of the private properties in the development and shall be restricted against private ownership for any other purposes. Improvements clearly incidental to the purposes of these provisions may be made within the open space provided that the maximum coverage of such improvements shall not exceed twenty-five percent (25%) of the open space.

2. Access of Open Space – All lots created within the development shall have direct access to all parks or open space as provided by means of public streets, dedicated walkways, facts of physical contiguity, other lands or lands in common ownership by all residents.
3. Open Space Provisions – Where the open space is to be deeded to a homeowners' association or other such non-profit ownership, the developer shall file a declaration of covenants and restrictions that will govern the open space and the association of nonprofit organizations. This declaration (a copy of which shall be retained by the Town Clerk) shall be submitted with preliminary plat approval and shall include but not be limited to the following:

- (a) The homeowners' association or the nonprofit organization shall be established before any lots are sold;
- (b) Membership shall be mandatory for each lot buyer and any successive buyer;
- (c) The association shall provide for liability insurance, any taxes, and maintenance of all grounds and facilities; and
- (d) Any sums levied by the association that remain unpaid shall become a lien upon the lot owner's property.

G. Private Roads

Should private roads be incorporated into the design of the residential cluster development, the pertinent portions of the Stanley Subdivision Regulations shall apply.

H. Approval Process

Before a conditional use can be permitted, a site plan must be approved by the Board of Adjustment. The site plan shall show the following information:

1. location, arrangement, and dimensions of automobile parking spaces, width of aisles, number of spaces, and angle of parking;
2. location and dimensions of vehicular entrances, exits, and drives;
3. general drainage system;
4. location and materials of walls and fences;
5. ground cover, topography, slopes, banks, and ditches;
6. the location and general exterior dimensions of the various residences;
7. the location, dimensions, and arrangements of areas to be devoted to planting lawns, trees, and other plants;
8. the plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone, and electric service (all utilities will be constructed to city standards);
9. an analysis of anticipated traffic volume;
10. sedimentation and erosion control plan;
11. evidence that the North Carolina Department of Transportation has been made aware of the proposed development and that the developer, if required, will coordinate planning for the development with this agency;
12. plans for refuse disposal equipment and method of refuse disposal such as compactors and dumpsters, if pertinent;
13. delineation of areas to be constructed in phases and sequential order; and
14. any other reasonable conditions felt necessary by the Board of Adjustment.

Section 9.10 Relationship of Building 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 residential building on a lot except pursuant to approval of a Planned Unit Development or a multi-family conditional use project.

Section 9.11 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 9.12 Corner Lot Frontage

In all Zoning Districts, the "front" shall be that upon which primary pedestrian access to the principal structure is designated.

Section 9.13 Double Frontage Lots

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

Section 9.14 Front Yard Setbacks for Dwellings

The front yard setback requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (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 average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way, whichever is greater.

Section 9.15 Side Yard Provided but Not Required

Where any side yard is provided, but not required by this Ordinance, the yard shall be at least three and one-half (3 and 1/2) feet.

Section 9.16 Thoroughfare Setback

A. Introduction

Per G.S. 160A-306 local governments have the authority to (i) classify all or a portion of the streets in their jurisdiction according to their size, present and anticipated traffic loads, and other similarly relevant characteristics, and (ii) establish minimum distances that buildings and other permanent structures or improvements constructed along class or type of street shall be set back from the center line of the existing or proposed major or minor thoroughfare. Accordingly, such regulations shall be applied to lots along any thoroughfare, or portions thereof, identified on the most recently adopted version of the Thoroughfare Plan of the Gaston Urban Area by the Stanley Town Board, for which a functional design and surveyed centerline exists. The location of all such applicable thoroughfares (or portions thereof) shall be available for public review and inspection in the office of the Lead Planning Agency during normal business hours.

B. Application

1. Said regulations shall apply if the functional design and surveyed centerline had been adopted by the Stanley Town Board prior to submittal of the zoning permit application.
2. The minimum yard or setback prescribed by each zoning district shown in Article XI shall begin to be measured from a point fifty (50) feet from the centerline of any major thoroughfare depicted on the Thoroughfare Plan, and forty (40) feet from the centerline of any such minor thoroughfare.
3. A thoroughfare setback or yard shall also be established on all applicable lots where existing rights-of-way are not large as herein prescribed (i.e. fifty feet on either side of the centerline). The thoroughfare setback area can be used for any use allowed in the underlying zoning district, except for those permanent uses which are prohibited in a required setback or yard area. Except whereas otherwise prohibited, the thoroughfare setback may be used to satisfy minimum lot size, off-street parking, and open space requirements.
4. The standards contained in Subsections A and B shall not apply to a development located on a lot in which such thoroughfare setback would normally be required which meets one or more of the following circumstances.
 - (a) A project which had a valid building permit in effect as of the effective date of this amendment where such permit allows for construction or development to take place within the required thoroughfare setback.
 - (b) A project which had an approved and valid site specific or phased development plan in place as of the effective date of this amendment where such development plan allows for construction to take place within the required thoroughfare

setback.

C. Appeal

An affected property owner shall have the right to appeal the thoroughfare setback requirements as provided herein to the Board of Adjustment for a variance to these regulations. The Board of Adjustment shall grant such a variance after having first conducted a public hearing and having determined that:

1. The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of these requirements; and,
2. The property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted; and
3. Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties. The public hearing shall be advertised in a manner prescribed by Article VI.

Section 9.17 Conditions for Modification of Required Yards

Requirements for front, rear and side yards may be modified under the following conditions:

- (a) Cornices, eaves, steps, gutters, bay windows less than (10) feet wide, fire escapes, fire balconies, fire towers and similar features may project not more than two and one-half (2 1/2) feet into any required yard.
- (b) Necessary retaining walls and fences less than six (6) feet high, when located in the rear yard, shall be exempt from the yard requirements of this Ordinance; except that on a corner lot no fence more than three (3) feet in height shall be located within any yard or building setback required along the side street line by any other provision of this Ordinance. The height of any fence located within a yard abutting on a street line shall be measured from the sidewalk; and if there is not a sidewalk, or curb, from the center line of the street. All other fence heights shall be measured from natural grade (terraces, steps and uncovered porches which are not in any part more than four (4) feet above the ground floor level and within two and one-half (2 1/2) feet of any lot line shall be exempt from the yard requirements of this Ordinance).

Section 9.18 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:

- (a) The outermost three (3) feet of any uncovered porch, step, eaves, gutter, canopy, or similar fixture, and;
- (b) A patio or boardwalk if no portion of the same extends more than twelve (12) inches off the ground, and;
- (c) Any customary decorative feature, such as a flagpole or fountain.

Section 9.19 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: (See Appendix Illustration A-2).

- (a) Accessory buildings and structures shall not be erected in any required front or side yard or any required street side setback on a corner lot.
- (b) Accessory buildings or structures may be located in the rear yard and the portion of the side yard that is not the required setback but in no case shall an accessory building or structure be erected within five (5) feet of the property line not a street line or within five (5) feet of any principal building.
- (c) Accessory buildings and structures shall not be erected in either front yard of any double frontage lot as set forth in Section 9.13.
- (d) No accessory building shall exceed the height limitation of the district in which located.
- (e) No mobile home, recreational vehicle, tiny home, or shipping container shall be used as an accessory building.
- (f) No residential accessory building or structure shall be larger than the principal structure.
- (g) Cluster Mailbox:
 - 1. The US Postal Office will work with builders and developers to determine the best mode for mail delivery, prior to extending or establishing delivery service.

2. Evergreen shrubs shall be provided in the vicinity of each Cluster Mailbox(es) to promote high quality appearance and good design. The number, location and height of such landscape material shall be appropriate to the specific location, based on available planting area, topography, and safety considerations, as determined by the Planning Director or designee. The maximum height of any such shrubs located in the public right-of-way or within a sight triangle shall follow Section 9.23.
3. Location of the Cluster Mailbox(es) shall take into consideration and promote non-motorist access as much as possible, as determined by the Planning Director or designee.
4. The following table will help guide the number of required off-street parking spaces based on the number of mailboxes:

| Number of Mailboxes | Parking Spaces Required |
|---------------------|--|
| 0-20 | 1 |
| 21-60 | 2 |
| 61-80 | 3 |
| 81-100 | 4 |
| 101 or more | 4 plus 1 per each additional 50 mailboxes or portion thereof above 100 |

Section 9.20 Temporary Buildings:

The Zoning Enforcement Officer may permit temporary buildings, including mobile structures, incidental to a construction project to be used concurrent with the permit for permanent building(s) or construction. No such building shall be used for dwelling purposes and shall be removed upon completion of the permanent construction.

Section 9.21 Height Limitation Exceptions

Except as may otherwise be prohibited by Federal Aviation Authority Regulations, the height limitations of this Ordinance shall not apply to public buildings, church spires, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, silos, grain elevators, chimneys, smokestacks, derricks, conveyors, flag poles and similar structures, provided such structures meet the required North Carolina Building Code.

Section 9.22 Density Credits

A. Introduction

The purpose of this Section is to allow for the usage of density credits in association with the dedication of road right-of-way. The Thoroughfare Plan of the Gaston Urban Area shows the locations of existing and proposed thoroughfares in the Stanley area. Per G.S. 13-66.10, dedication of right-of-way in conformance with the Thoroughfare Plan, may be required by a local government. In association with such dedication, G.S. 126.66.10 also permits local elected bodies to grant credits is viewed as a means of fostering the orderly, timely, and cost-effective credits is viewed a means of fostering the orderly, timely, and cost-effective development and/or improvement of thoroughfares in the Stanley area.

B. Definitions

- 1. Functional Design.** A preliminary roadway design shall be approved by the Stanley Town Council on a topographic map at a scale no smaller than 1 inch equals two-hundred feet (1"=200') showing the horizontal width, centerline and typical cross-section for a proposed roadway. Cross-sections shall show roadway and lane width, and right-of-way width, and may also show utility easements, and other roadway improvements that describe the final appearance of the road (i.e., sidewalks, tree plantings, bikeway facilities, etc.). Typical cross-sections should be based on NCDOT recommended street designs. All functional designs are maintained at the Metropolitan Planning Office facilities located in the Gastonia City Hall and available for public inspection during normal business hours.
- 2. Thoroughfare Plan.** The version of the Thoroughfare Plan of the Gaston Urban Area most recently adopted by the Stanley Town Council.
- 3. Density Credit.** The potential for the improvement or subdivision of part or all of a parcel of real property as permitted under the terms of the Stanley Zoning Ordinance. The following terms are to be used in computing and applying density credits:

A1 = Entire area of land to be dedicated for thoroughfare right-of-way purposes if direct access to such thoroughfare by abutting lots from the tract in question is not permitted.

A2 = If direct access from abutting lots (on the tract in question) to the thoroughfare is allowed, the difference between the area of land dedicated for right-of-way purposes and that which would normally be required per the Stanley Subdivision Ordinance.

B = Area of tract prior to right-of-way dedication.

C = A – (A1 and A2), (i.e., land in tract remaining after dedication is made).

D = Minimum lot size requirement prior to application of density credit bonus.

E = Minimum lot size after application of density credit bonus (“A1 or A2/B” X “D”).

F = Maximum multi-family units per acre without density credit bonus.

C. Right-of-Way Dedication

1. Per G.S. 136-66.20, density credits may be granted by the Stanley Town Council whenever right-of-way dedication, in accordance with the Thoroughfare Plan, is required for a tract of land located within the planning jurisdiction of the Town of Stanley, and such tract is proposed for subdivision or use of land pursuant to a zoning permit.
2. Right-of-way dedication may be so required by the Stanley Town Council in situations where land subdivision is not involved, if the Town Council determines that:
 - (a) Said dedication does not result in the deprivation of all reasonable use of the original tract; and
 - (b) The dedication is reasonably related to the traffic generated by the proposed use of land, or the impact of the dedication is mitigated by other measures including the use of density credits, as herein prescribed, on contiguous land owned by the subdivider.
3. If the full width of the thoroughfare for which land is to be dedicated is completely contained within the tract of land to be used or developed, up to 100 percent of the right-of-way needed to construct or enlarge the thoroughfare on that tract shall be provided. If a portion of such thoroughfare is located on the property proposed to be subdivided or developed, the corresponding proportion of land on that tract may be required to be dedicated.
4. Dedication of land, as provided herein, shall be offered to the public. Proof (in the form of an instrument having been recorded in the Gaston County Deeds Office) of such dedication having been made shall be furnished to the Zoning Enforcement Officer prior to the issuance of any zoning permit.
5. Any land so dedicated shall substantially be that as needed for the thoroughfare right-of-way in question as shown on the Thoroughfare Plan.

D. Application of Density Credits

1. The usage of density credits shall be applicable on a particular tract only if approved by the Town Council.
2. The amount of density credits granted by the Town Council shall be computed as follows.
 - (a) If the tract(s) which abuts the proposed thoroughfare, or lots created from said tract which abut the thoroughfare, will be able to directly access the thoroughfare, density credits will be computed only for that area of land dedicated (per the Thoroughfare Plan) which is in excess of that which would normally be required to be dedicated as called for in the Stanley Subdivision Regulations Ordinance.

Irrespective of the above, the Stanley Town Council shall have the authority to issue density credits based on the full right-of-way width, having determined that the proposed road location will significantly aid in the flow of traffic both in the immediate vicinity and throughout the community.
 - (b) If the tract(s) which abuts the proposed thoroughfare, or lots created from said tract which abut the thoroughfare, are not permitted access or are otherwise unable to access the thoroughfare, density credits are to be calculated using the full-width of the right-of-way dedication area.
3. The result of the application of density credits shall be to allow for a level intensity of development above that which would normally be allowed in the underlying general zoning district and the creation of lots which may be smaller in area that otherwise called for in the underlying zoning district.

E. Density Credit Calculations

The following formulae shall be used in calculating the additional amount of development allowed using density credits:

1. Single-Family (including lots containing individual manufactured homes) and Two-Family lots.

The density credit bonus is derived by dividing the area dedicated for thoroughfare right-of-way purposes (A1) or (A2) by the area of the entire tract and then multiplied by 100 $((A1 \text{ or } A2) / B \times 100)$. The ensuing figure may be used on a percent-by-percent basis to reduce the minimum lot size by up to twenty-five (25) percent. Irrespective of the use of

density credits, all yard, height, parking, and setback requirements as stated in this Ordinance are to be observed.

2. Two-Family Developments and any other Developments where Density is Measured on a Units per Acre Basis.

The density credit bonus (A1 or A2/B) shall be multiplied by the maximum density level ("F") in the underlying zoning district. The resulting figure is then added to "F" and then multiplied by "C", the remaining developable land in the tract once the right-of-way dedication has been made. In no case may the subsequent density level be raised by more than twenty-five (25) percent over that level which is normally allowed in the underlying zoning district.

Irrespective of the use of density credits, all yard, height, parking, and setback requirements stated in this Ordinance are to be observed.

3. Non-Residential Developments

The area to be computed for the density credit shall first be determined (A1 or A2). Such area may be used to reduce the number of required off-street parking spaces at a ratio of one off-street parking space reduction per 330 square feet of available density credit area. In no case may the number of off-street parking spaces be reduced by greater than ten (10) percent over that which is normally required. All other applicable provisions of this Ordinance shall be observed.

Section 9.23 Visibility at Intersections

On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision more than three (3) 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 lines each of which is ten (10) feet distance from the point of intersection.

Section 9.24 Curb Cuts in Business and Industrial Districts

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 NCDOT, as amended. Entrance and exits to state system streets shall require a permit issued by NCDOT after review by the Public Works Director. Entrances and exits to town system streets shall require a permit issued by the Public Works Director.

Section 9.25 Fences and Walls

Fences and walls shall be exempt from setback and yard requirements provided they comply with the following standards: (See Appendix Illustration A-1).

Fences and Walls in Residential Districts

Unless otherwise specified within this ordinance and in accordance with Section 9.23, the following restrictions shall apply to all fences and walls located within any residential district, except for fences and walls surrounding public utility structures or radio, television, or microwave transmission or relay towers:

1. No fence or wall located in the required front setback shall be built to a height greater than three (3) feet above grade.
2. No fence or wall located in the required side yard between the required front setback and established rear yard shall be built to a height greater than six (6) feet above grade.
3. No fence or wall located in the established rear yard shall be greater in height than eight (8) feet above grade.
4. 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.
5. The capital of a fence post or column may extend up to two (2) feet above the maximum height limit.
6. No fence or wall shall be constructed within a storm drainage easement which will block or materially impede the flow of stormwater runoff.
7. 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 XVI.
8. All construction of fencing will require that a permit be obtained prior to construction.

Fences and Walls in Other Districts

1. No fence or wall shall be greater in height than eight (8) feet above grade.
2. 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.

3. The capital of a fence post or column may extend up to two (2) feet above the maximum height limit.
4. No fence or wall shall be constructed within a storm drainage easement which will block or materially impede the flow of stormwater runoff.
5. 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 XVI.
6. All construction of fencing will require that a permit be obtained prior to construction.

Section 9.26 Outside Can or Container Washing or Cleaning

Any commercial facility, particularly food service establishments, requiring and/or providing outside can wash equipment, shall maintain such equipment a minimum of twenty-five (25) feet from adjacent property line. This requirement shall be applicable to equipment attached or detached in respect to the principal structure.

Section 9.27 Solid Waste Storage Equipment

Any business or industrial establishment abutting a residential zoning district and providing solid waste storage equipment shall locate such equipment a minimum of twenty-five (25) feet from said residential property line and shall enclose said equipment, on all sides with a screening device as described in Article XV.

Section 9.28 Outdoor Lighting

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

Section 9.29 Outdoor Storage Areas

Except for clearly incidental storage related to a permitted use, outdoor storage shall not be permitted in the CB and GB Districts. In the M-1, M-1L and M-1H Districts, outdoor storage shall not interfere with required fire lane access to buildings and grounds.

Section 9.30 Use of Manufactured Homes as Vehicles, Use of Vehicles for Storage or Dwelling Unit, Use of Shipping Containers for Storage or Dwelling Unit

Manufactured homes shall be used for residential purposes only (with permit), except when serving as a manufactured home sales lot office, or as a temporary sales structure.

Vehicles (cars, trucks, buses, recreational vehicles, etc.) shall be used for transportation purposes, and not for storage purposes, and not as a dwelling unit (i.e. powered or connected to water or sewer in the case of recreational vehicles).

Shipping containers shall be used for commercial storage and shipping purposes only and not for storage or dwelling units in residential districts, the mixed use district, or in the manufactured home overlay district.

Section 9.31 Communication Tower Regulations**A. Where permitted**

Refer to the Small Wireless Facility Model Ordinance and Section 12.9, Note 20 for additional information on communication towers. In all cases, co-location is encouraged, and placement of new towers can only be applied for after it is proven that locating on an existing tower is unfeasible due to technical constraints. If it is proven that co-location is not possible on an existing tower, the following restrictions will apply within the Business and Manufacturing Districts:

1. Communication towers may be located on any publicly or privately held tract of land exceeding one (1) acre in size, with the issuance of a conditional use permit issued by the Town Council.
2. Towers under thirty (30) feet in height may be erected on an existing building with the issuance of a zoning permit. Towers in excess of thirty (30) feet may be erected on existing buildings with the issuance of a conditional use permit by the Town Council.

B. Type of Tower Permitted

1. Monopole towers; or
2. Lattice towers which can accommodate at least three (3) carriers; a good faith effort must be made by both the tower owner and any new carrier to allow for co-location on existing towers. Adequate provision by the carrier must be made to ensure that the placement of transmitters for emergency services is made available.

C. Tower Appearance

1. Towers and associated buildings and equipment shall be painted in a neutral color;
2. All towers shall be illuminated only as required by the FCC (Federal Communication Commission) and FAA (Federal Aviation Administration) and such illumination shall be directed away from residential structures;
3. The entire property on which the tower is located shall be screened from view of adjacent property owners with an opaque vegetative screen. Screening shall be in accordance with Article XV. No commercial messages shall be placed on towers; and towers shall not exceed 199 feet in commercial or manufacturing districts.

E. Setbacks

Towers shall be at least one (1) foot off all property lines for each foot of tower height unless the applicant can provide detailed information showing the design of the tower will collapse within itself, instead of falling to one side. Is such fall zone information is provided, the setbacks for the tower shall be at least on (1) foot off all property lines for each foot of tower height in excess of seventy-five (75) feet, with a minimum of fifty (50) feet regardless of tower height.

For example:

- 60' tower 50' setback off property line
- 75' tower 50' setback off property line
- 100' tower 50' setback off property line
- 150' tower 75' setback off property line
- 199' tower 124' setback off property line

In addition, all towers shall be at least 100 feet from any existing residence.

F. Co-Location

Co-location is a desirable option and is therefore encouraged by the following means:

1. Before any new tower can be approved, it must be shown that existing towers are not adequate for serving customer needs or for co-location; and
2. When co-locating, there is not necessity for an otherwise required special use approval.

G. Old Towers/Advanced Technology/Review

1. Abandoned towers shall be removed by the carrier. Removal must take place within six (6) months of the last use of the tower.
2. The issuance of a permit for a tower will be for a period of five (5) years. After this time, the tower owner shall submit documentation that includes information regarding the continued need for the tower and the lowest feasible tower height. If this lowest feasible tower height is seventy (70) percent or less of the current tower height, the tower will be reduced to the lowest feasible level.
3. If technology changes cause the Zoning Enforcement Officer to feel that the tower height is excessive, he may require the tower owner to submit documentation regarding lowest feasible height at times other than the five (5) year renewal. Should technology changes render the height of the tower excessive, the Zoning Enforcement Officer may require that the tower height be reduced or the tower be replaced or removed.

H. Power Output and Interference

It shall be the carriers' responsibility to present evidence that the tower output from the tower does not exceed federally approved levels for exposure to electromagnetic forces. It shall be the responsibility of the carrier to ensure that the tower does not cause any interference with television, radio, and telephone reception of neighboring properties.

Section 9.32 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 9.33 Early Vesting of Development Rights Upon Approval of Site Plan

Pursuant to G.S. 160A-385.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site-specific development plan approval which shall entitle said landowner to develop property in accordance with said site specific development plan. The procedure for establishing a vested right is set forth in this section.

A. Definitions

For the purpose of this section only, the following definitions shall apply:



1. **Landowner:** Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan in the manner allowed by this Ordinance.
2. **Property:** All real property subject to zoning regulations and restrictions and zone boundaries of the Town of Stanley.
3. **Vested Right:** The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

B. Submission of a Site-Specific Development Plan

To apply for vested right, a landowner shall first submit to the Zoning Enforcement Officer a site-specific development plan. The plan shall be submitted in completed form at least ten (10) days prior to the next regularly scheduled or called Planning Board meeting. The site specific development plan shall be considered complete if submitted with a fee (in accordance with a fee schedule adopted by the Town Council) and accompanied with all information required for the submittal of a conditional use permit application.

C. Planning Board Review

The Planning Board shall have a maximum of thirty-one (31) days from date it initially met to review the application to submit a recommendation to the Town Council. The Planning Board may at any time during this period, require additional information to evaluate an application. Should such information be requested, the review period shall not resume being counted until such information is presented to the Planning Board. If no recommendation is made to the Town Council after the end of the thirty-one (31) day review period, the application shall be forwarded to the Town Council without a recommendation.

D. Public Hearing

Once a recommendation is received from the Planning Board (or the thirty-one-day period expires without a recommendation), the Town Council shall conduct a public hearing on the application. Notice of the public hearing shall be given as follows:

1. A notice shall be published in a newspaper having general circulation in the Stanley area once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the

public hearing.

2. A notice of the public hearing shall be sent by first class mail by the Zoning Enforcement Officer (or agent) to all contiguous property owners at least ten (10) days prior to the public hearing.

E. Town Council Action

Once the public hearing has been held, the Town Council shall determine whether or not to approve the site-specific development plan and accord the vested right. In approving an application for vested right of a site-specific development plan, the Town Council may attach fair and reasonable ad hoc conditions to the approval, such conditions being necessary to protect the public's health, safety and welfare. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council may not require the landowner to waive his vested right as a condition of developmental approval.

The Town Council may approve the site-specific development plan if it has evaluated an application and determined that:

1. The use meets all required specifications of the zoning ordinance;
2. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed; and
3. If the site-specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section (F).

The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.

If the use or development for which the site-specific development plan is submitted is a conditional use, the Town Council may approve the site-specific development plan contemporaneously with the approval of the conditional use permit. In no case, however, may a site-specific development plan be approved for a use or development which requires the issuance of a conditional use permit without the conditional use permit having first been issued.

F. Effect of Approval

The effect of the Town Council approving a site-specific development plan shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests,

however, the Town Council may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period may only be authorized by the Town Council where it is found that due to the size or magnitude of the proposed development a two-year vesting period would not be sufficient time for the landowner to commence the project.

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved site-specific development plan. Failure to abide by their terms and conditions placed upon such approval will result in the forfeiture of the vested right so accorded.

A vested right, once established as herein provided, shall preclude any zoning action by the Town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site-specific development except under the following conditions:

1. The affected landowner provides written consent to the Town of his desire to terminate the vested right; or,
2. The Town determines, after having advertised and held a public hearing (as provided for in Section 9.33 D), that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site-specific development plan; or,
3. Compensation is made by the Town to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,
4. The Town determines, after having advertised and held a public hearing (as provided for in Section 9.33 D), that the landowner or his representative intentionally supplied inaccurate information or added material misrepresentations which made a difference in the approval by the Town of the site-specific development plan; or,
5. Upon the enactment or promulgation of a State or Federal law or regulations which precludes development as contemplated in the site-specific development plan. In such case the Town may (after having advertised and conducted a public hearing as provided for in Section 9.33 D) modify the affected provisions upon a finding that the change in State or federal law has a fundamental effect on the plan.

Once a vested right is granted to a particular site-specific development plan, nothing in this section shall preclude the Town from conducting subsequent reviews and approvals to ensure

compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

G. Revocation or Expiration of a Vested Right

The vested right resulting from the approval of a site-specific development plan may be revoked by the Town Council as provided for in Section (F). In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance.

The vested right granted to the landowner shall automatically terminate two (2) years from the date of the approval of the site-specific development plan (unless a longer vesting period was previously approved by the Town council). In such case, the vested right shall be terminated at the end of such period.

I. Revocation of Building Permit

A building permit issued by Gaston County pursuant to G.S. 160A-417 may not be revoked because of the running time for the building permit on a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.

J. Amendments to the Zoning Ordinance

The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the Town from establishing and putting into place one or more overlay districts which may impose additional restrictions on said property, provided such restrictions do not affect the allowable type of intensity or use. Otherwise such regulations shall become effective with respect to the subject property upon the expiration or termination of the vested right. The Town may also enforce on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.

Section 9.34 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 Town Council for the administration of this Ordinance.