

SUP Ordinance Requirements for Apartments

Sec. 32-129. - Special use permits.

A special use permit shall be issued in when in certain zoning uses have unique characteristics and cannot be properly classified in any particular district, without consideration, of the impact of those uses upon neighboring land and of the particular use in the proposed location. The governing board, planning board, or board of adjustment shall follow the following quasi-judicial rules when issuing a special use permit:

- (a) *Process required.* 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.
- (b) *Notice of hearing.* Notice of evidentiary hearings conducted pursuant to this chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- (c) *Administrative materials.* The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- (d) *Presentation of evidence.* The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to

judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) *Appearance of official new issues.* The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(f) *Oaths.* The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) *Subpoenas.* The board making a quasi-judicial decision under this chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(h) *Appeals in nature of certiorari.* When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).

(i) *Voting.* The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(j) *Decisions.* The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal

are currently zoned R-MF , R-MF-A, R-MF-C, and R-MF-T. Tracts that are rezoned by conditional zoning will not need to get a special use permit. The conditional use rezoning permit will act as approval of the project.										
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ARTICLE V. - DEVELOPMENT STANDARDS

DIVISION 1. – GENERALLY

Sec. 32-241. - Table of area, height and placement regulations.

The table of area, height and placement regulations shall be as follows:

District	Minimum Lot Area (sq. ft.) ¹²	Required Additional Lot Area per Dwelling in Excess of One (sq. ft.)	Minimum Lot Width at Building Line (in feet)	Required Setbacks in Feet			Maximum Building Height (in feet)
				Front	Side	Rear	
R-R	20,000	20,000	85	30	10 ¹	35	35 ²
R-20	20,000	20,000	85	30	10 ¹	35	35 ²
R-15	15,000 ³	15,000 ³	80	30	10 ¹	30	35 ²
R-MF-A ⁷	8,000 ³	2,000 ³	100	10	10 ^{1, 11}	20 ⁴	35 ²

Footnotes

¹ 15 feet from edge of right-of-way where abutting a street.

² Additional height above the specified limits for every foot or fraction thereof of building height specified if one additional foot of front, side, and rear setback is provided. However, in no case shall a building exceed three stories above ground level.

³ Minimal lot sizes permitted only where public water and sewer are available. If a septic tank waste disposal system is used, the minimum lot size shall be determined by the county health department.

⁴ 20-foot setback where abutting a property line; 30 feet where abutting a street. Normally, rear yard setback is measured from the property line to the edge of the principal building, excluding a roof overhang. However, if a patio or deck is provided, the backyard setback shall be measured from the property line to these facilities.

⁷ Any one-family, detached dwelling in the R-MF-A, R-MF-C, R-MF-T, R-MH, R-MH-1, R-MH-2, B-2 or O-I districts shall meet the dimensional requirements of the R-15 residential district.

¹¹ Side yard setbacks shall be 30 feet from right-of-way when abutting a street.

Sec. 32-243. - Development plan.

A development plan shall be prepared and sealed by an architect, engineer or surveyor licensed in the state for shopping centers, multifamily developments, planned unit developments (PUD), mobile home parks and industrial parks, and business-related districts. The development plan shall show the following information, if applicable:

(1) Location, arrangement, and dimensions of truck loading and unloading spaces and docks. (see [section 32-392](#))

(2) Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays, angle parking and sidewalk layouts. (see [section 32-359](#))

(3) Location and dimensions of vehicular entrances, exits and drives. (see [section 32-321](#))

(4) Specific drainage systems, as they relate to the site and adjoining properties. (per state guidelines)

(5) Location and materials of walls and fences. (see [section 32-259](#))

(6) Ground cover, topography, slopes, banks, and ditches. (per state and best management practices)

(7) The location and general exterior dimensions of main and accessory buildings.

(8) Architectural plans for proposed buildings. (per state technical codes)

(9) The location, dimensions, and arrangements of areas to be devoted to planting, lawns, trees and other plants. (see [sections 32-254](#) and [32-259](#))

(10) The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service (all utilities shall be constructed per the city's construction standards, if applicable).

(11) An analysis of anticipated traffic volume on larger projects or if deemed necessary by the approving board, city engineer, or NCDOT.

(12) Sediment control plan. (per state guidelines)

(13) Evidence that the state department of transportation has been made aware of the proposed development and that the developer will coordinate for the development with this agency.

(14) Plans for refuse disposal equipment and method of refuse disposal such as compactors or dumpsters. (see [section 32-254](#))

(15) Delineation of areas to be constructed in phases and sequential order.

Sec. 32-245. - Residential multifamily apartments (R-MF-A).

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Apartment. Two or more dwelling units in single ownership where the units are rented or leased. The development shall consist of one or more multifamily buildings on a single tract of land, and shall have no more than 16 units per building.

(b) *Open space.* A minimum of 15 percent of the gross acreage shall be reserved as natural vegetative space, grass areas or buffer areas.

(c) *Recreation facilities.* Multifamily projects shall provide recreational space based on the number of dwelling units per development as established in the following table:

Number of Dwelling Units Per Development	Minimum Space Per Dwelling Unit (sq. ft.)
1—8	900
9—16	1,800
17—32	2,700
33+	3,600

The term "recreational facility" is defined as, but not limited to, a building, enclosed structure or facility for use by the residents of the development for recreational activities, such as clubhouse, swimming pools, tennis courts, playground-equipped areas, picnic tables/shelters and/or basketball courts. These areas shall be furnished by the developer and maintained by the owner of the development.

- (d) *Spacing between circulation system and buildings.* Automobile parking spaces and drives shall not be located closer than ten feet to the front, side or rear of any building.
- (e) *Building relationships.* No building shall be located closer than as specified by the state building code, volume 1, but in no case shall any building be located closer than 20 feet to an adjacent building.
- (f) *Courtyard.* Any group of buildings forming a courtyard shall have at least 25 percent of the perimeter of such courtyard open for access by emergency vehicles.
- (g) *Buffering.* Adequate landscaping and buffering shall be included to buffer the development from its adjacent land uses, lots, or public rights-of-way per [section 32-259](#).
- (h) *Perimeter requirement.* No building shall be erected, reconstructed, altered or moved nearer the exterior project property lines than 20 feet or the applicable district yard requirements, whichever is greater. If a deck or patio is provided, the setback shall be measured from property line to these facilities instead of from the property line to the permanent structure.
- (i) *Solid waste disposal.* A plan for solid waste storage, collection and disposal shall be submitted to the city and approval obtained prior to issuance of a zoning permit. If dumpster sites are used they must be screened and enclosed by a decorative fence of at least eight feet in height and having a gate of at least ten feet. Each dumpster shall be placed on a six-inch by ten-foot by 15-foot reinforced concrete pad.
- (j) *Streets.* Streets shall either be public or private. However, all streets shall be paved and built to the minimum construction standards of the state department of transportation, division of highways, or the city street standards, whichever is more stringent. When streets are private, a covenant shall be agreed upon between the city and the developer/owner of the project for the maintenance of streets and parking areas within the project. A copy of this proposed covenant shall be submitted to the city for review during the conditional use review phase.
- (k) *Street signs.* Where streets which access the development are public or private, signs shall be placed to identify the street names, directional information and regulatory information.
- (l) *Utilities.* All developments shall provide underground utilities, including electricity, telephone, cable, gas, water and sewer. All installation of utilities and maintenance of utilities shall be in accordance with the requirements of the city and/or related utility regulation.
- (m) *Fire protection.* A plan shall be submitted to the planning department and to the fire department for review of fire suppression systems, including hydrants, fire lanes and sprinkler systems.
- (n) *Watershed requirements.* See article V, division 2, of this chapter.

([Ord. No. 2024-01](#), 1-2-24)

Sec. 32-259. - Buffering and screening requirements.

Table 32-259.1

Level of Buffering by Zoning District*

Zoning District Adjacent To	R-R	R-20	R-15	R-MF-A	R-MF-T	R-MF-C	R-MH	R-MH-1	R-MH-2	O-I	B-I	B-2	L-I	H-I
R-R	**	**	**	1	1	1	1	1	1	1	**	2	2	3
R-20	**	**	**	2	1	1	2	2	2	2	**	2	3	3
R-15	**	**	**	2	2	2	2	2	2	2	2	2	3	3
R-MF-A	1	2	2	1	1	1	1	1	1	1	**	1	1	

(c) *Definitions.*

(9) *Landscape plan.* A component of a development plan on which is shown: Proposed landscape species (such as number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; proposed ways to minimize the potentials for negative impacts upon public senses and protecting the community environment; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority. Plans shall be prepared by a North Carolina licensed professional in the areas of landscaping.

Sec. 32-359. - Schedule of parking spaces.

Off-street parking spaces shall be provided and permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:

(15) Residences and apartments, mobile homes and mobile home parks: Two spaces for each dwelling unit.

