

SECTION 1-1-41 HIGHWAY DISTRICT**(A) PURPOSES OF HIGHWAY DISTRICT**

The interest of the public in its highways and major thoroughfares and the interests of the owners of adjacent lands are generally interdependent, but often in conflict. The efficiency, permanency, safety, and convenience, and enjoyment of such highways and major thoroughfares depend to a great extent upon the way such adjacent lands are utilized. On the other hand, the value of the adjacent lands, and the uses which can be made of them, depend to a great extent upon the continuation of the highway or thoroughfare and the amount and nature of the traffic upon it.

- (1) This District is adopted for the purposes of:
 - (a) Protecting the public investment in and lengthening the time during which highways and major thoroughfares can continue to serve their functions of moving people and goods without expansion or relocation, by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress and egress and cluttered roadside development;
 - (b) Requiring that buildings and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the flow of traffic;
 - (c) Enhancing the value of adjacent lands by preserving and extending the useful life of the highway and thoroughfare systems, avoiding land uses that conflict with the roadside and the surrounding area, and reducing the risks of creating blighted areas as the result of future highway or thoroughfare relocations;
 - (d) Ensuring the attractiveness of roadside uses, which will in turn contribute to and enhance trade, tourism, capital investment, and the general welfare; and
 - (e) Reserving adequate roadside space through which neighborhood traffic may be admitted to and from the highway and thoroughfare system in a manner that avoids undue traffic concentrations, sudden turnings and stoppings, and other hazards.
- (2) The Highway District accomplishes the above purposes by:
 - (a) Establishing more stringent regulation along major thoroughfares over the minimum width of building lots and depth of minimum front yards than are imposed along lesser roads and streets;
 - (b) Prohibiting uses which involve a high number of traffic movements unless they are developed according to an approved site plan and certain standards which, together with certain incentives, are intended to encourage the clustering of such uses on one (1) or more lots developed under one (1) site plan and served by a common system of ingress and egress;
 - (c) Requiring all yards to be landscaped, and limiting the uses which can be made of them;
 - (d) Generally decreasing the number of points of ingress to, and egress from, such highway and thoroughfares, while increasing the separation between such points.

(B) DISTRICT REGULATIONS**(1) Locational Criteria for Highway District**

The County should utilize this District on lands adjacent to principal and minor arterials and selected portions of major collectors, as identified by the State Department of Transportation functional classification system, and interchanges with fully controlled access roads as determined appropriate for the types of uses which are allowed within it, and where there is or will be a need to exercise the types of regulations which are herein established in order to protect the public investment in such highways and the safety and convenience of the traveling public.

(2) [Reserved] *[Amended 7/20/92 to delete exemption of all agricultural and forestry uses from Section regulations (O-92-17) - but see Section 1-1-23(C)(1)]*

(3) Definitions

(a) Access point: A point of ingress and/or egress, which may be a driveway or an access road.

(b) Access road: A public or private one-way or two-way road for ingress and/or egress. Such access roads may be of various types, including frontage roads, rear access roads, and cul-de-sacs. This definition includes secondary roads, but does not include driveways.

[Amended 7/20/92 to delete definition of "major thoroughfare" (O-92-17) - see definition in Section 1-1-1]

(4) Recorded Lots

(a) All lots recorded in the office of the Register of Deeds prior to the effective date of this Section are entitled to a permit for any general use permitted in this District pursuant to receiving other necessary permits. Where the lot does not contain a minimum of twenty thousand (20,000) square feet, exclusive of required yards, the yard standards shall be modified in the following prescribed order so as to increase the lot coverage to a minimum of twenty thousand (20,000) square feet, exclusive of required yards:

1. Reduce the required rear yard up to a maximum of forty (40) percent and/or reduce the required side yard up to a maximum of thirty (30) percent.
2. Reduce the required front yard up to a maximum of thirty (30) percent.

(C) PERMITTED USES

Permitted general uses are those designated in Table A with an "X" under the column "General Use Permit." Permitted special uses are those designated in Table A with an "X" under the column "Special Use Permit." *[Amended 7/13/98 to delete provisions re review process (O-98-24)]*

(D) CONSTRUCTION AND OPERATION STANDARDS

(1) [Reserved] *[Amended 10/16/95 to provide that minimum lot area standards for residential uses in R-30 zoning apply to general uses, and to delete reference to compliance with yard, and appropriate Health Department and State regulations from provision in (b) (O-95-19); lot area standards relocated to Subdivision Ordinance 4/15/96 (O-96-7)]*

(2) Supplemental Lot Width and Frontage Requirements for Special Uses

A lot on which a special use is to be located shall have a width and road frontage width meeting the following standards:

- (a) Where direct access is to be provided from a major thoroughfare, both the lot width and frontage width along the major thoroughfare shall both be at least four hundred (400) feet.
- (b) Where direct access is to be provided from an access road serving only two (2) lots, both the lot width and frontage width along the access road shall be at least two hundred (200) feet.
- (c) Where direct access is to be provided from an access road serving three (3) or more lots, the lot width and frontage width along the access road shall be at least one hundred fifty (150) feet.
- (d) Where the lot fronts on a cul-de-sac road and is not a corner lot, the lot width along the cul-de-sac road shall be at least one hundred (100) feet.
- (e) Where the lot fronts on a rear access road but direct access is to be provided from a more minor thoroughfare, the lot width along the rear access road shall be at least one hundred (100) feet.

[Amended 10/16/95 to provide that minimum lot width standards for residential uses in R-30 zoning apply to general uses (O-95-19); lot width standards for general uses relocated to Subdivision Ordinance 4/15/96, with road-based standards for special uses clarified as supplemental standards (O-96-7)]

(3) Front Yard

- (a) For General Uses

The minimum front yard depth standards established in Section 1-1-37(F)(1) for residential uses in the Residential-30 zoning district shall be applicable to general uses in the Highway District, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).

- (b) For Special Uses

The minimum front yard depth for special uses shall be fifty (50) feet, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).

- (c) Reductions for Special Uses

The Board of Adjustment, in considering an application for a special use, may reduce the building setback lines and minimum front yard requirements upon making a finding that the proposed reduction of those requirements:

1. Will not substantially defeat the purposes for which those requirements were established, as set forth in Section 1-1-41(A) of this Ordinance;
2. Will not adversely affect traffic conditions in the vicinity by, for example, impeding sight lines at street intersections and curb cuts; and

3. Is necessitated by the configuration of the land, which makes it impossible to comply with the standard setback and front yard requirements.

[Amended 10/16/95 to delete "Building Setback Lines and Required" from heading, add new (a), renumber old (a) and (b) to (b) and (c), limit (b) to special uses, delete a 90-foot minimum setback from major thoroughfares, and add proviso to (b) that yard depth be measured from the edge of a major thoroughfare's ultimate planned right-of-way (O-95-19)]

(4) Rear and Side Yards

(a) For General Uses

The minimum rear and side yard depth standards established in Section 1-1-37(F)(1) for residential uses in the Residential-30 zoning district shall be applicable to general uses in the Highway District, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).

(b) For Special Uses

1. Minimum depth of rear yard: Forty (40) feet; but fifty (50) feet when adjacent to a public right-of-way or residential district, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).
2. Minimum width of side yard of corner lot: Fifty (50) feet, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).
3. Minimum width of one side yard: Thirty (30) feet; but fifty (50) feet when adjacent to a Residential District.
4. Minimum aggregate width of side yards: Eighty (80) feet; but fifty (50) feet when one (1) side yard abuts a railroad track.
5. A minimum side or rear yard is not required when a railroad siding located on or along a lot line serves two (2) adjacent lots.

(c) Reductions for Special Uses

The Board of Adjustment, in considering an application for a special use, may reduce the yard requirements contained herein upon making a finding that the proposed reduction of these requirements:

1. Will not substantially defeat the purposes for which those requirements were established, as set forth in Section 1-1-41(A) of this Ordinance;
2. Will not adversely affect traffic conditions in the vicinity by, for example, impeding sight lines at street intersections and curb cuts; and
3. Is necessitated by the configuration of the land, which makes it impossible to comply with the standard rear and side yard requirements.

[Amended 10/16/95 to add "Rear and Side" to heading, substitute new (a) for 20-foot minimum side yard depth and 30-foot rear yard depth (50 feet if adjacent to thoroughfare) and a minimum 90-foot yard depth adjacent to major

thoroughfares, and substitute proviso that yard depth be measured from a major thoroughfare's ultimate planned right-of-way for 90-foot yard depth minimums in (b)1. and (b)2. (O-95-19)]

(5) Yard Usage

(a) For General and Special Uses

1. Sediment impoundments, boundary fences, gates, and security stations may be located in any required yard.
2. Accessory buildings are only permitted in a maximum of fifty (50) percent of the required side and rear yards provided that:
 - a. No accessory building shall be located in front of the front building line; and
 - b. No accessory building shall be located closer than ninety (90) feet to a corner side yard lot line, or twenty (20) feet to a side or rear yard lot line.
3. Parking and loading shall not be permitted in any required front yard or corner side yard, nor within twenty (20) feet of any lot line in any other required yard area.

(b) For Special Uses Only

1. Accessory uses - other than necessary driveway and railroad crossings - and the outdoor storage, display, and dispensing of goods and services are prohibited within any required side or rear yard abutting a public right-of-way, residential district, or major thoroughfare, but are permitted within any other required side or rear yard, provided they are located at least twenty (20) feet from the side or rear lot line. *[Amended 2/7/00 to clarify and reduce setbacks from residential district (from 50 ft.) and major thoroughfares (from 90 ft.) (O-00-5)]*
2. Those portions of the front, rear, side, or corner side yards that are not devoted to the uses, buildings, and structures that are permitted within this Section shall be landscaped in accordance with the regulations as set forth in Section 1-1-29 of this Ordinance.
3. Screening and fencing: The Board of Adjustment may require a screen or fence to be provided in all or any part of those yards where there is outdoor storage or display of materials, outdoor recreation; accessory building(s), or parking. In order to require a screen or fence, the Board of Adjustment must make a finding that such yard usage would not be essential to the operation of the proposed use, or that such usage would be unsightly when viewed from an adjacent zoning district or public thoroughfare.

(6) Impervious Surface Coverage

- (a)** For general uses, the total impervious surface coverage of any lot or parcel shall not exceed thirty (30) percent of the area of that lot or parcel except for lots within Cluster or Open Space subdivisions, where this impervious surface coverage limit shall be increased by a percentage equal to the percentage of the subdivision site dedicated or reserved as permanent open space. *[Amended 4/15/96 to add exception for cluster subdivision lots (O-96-7)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

- (b) For special uses, the total impervious surface coverage of any lot or parcel may exceed thirty (30) percent of the area of that lot or parcel only if on-site detention of sediment and storm water is provided for the runoff in excess of that which would occur with thirty (30) percent impervious surface coverage.

[Amended 10/16/95 to substitute heading for "Lot Coverage", add (a), and reword (b) (O-95-19)]

(7) Points of Ingress and Egress for General and Special Uses

- (a) [To and From Adjacent Highway or Thoroughfare]

Each building lot shall be limited to one (1) point of ingress to, and one (1) point of egress from, the adjacent highway or thoroughfare. Points of ingress and egress may be combined into one (1) two-way driveway with appropriate separation of lanes. Additional points of ingress to and egress from a highway or thoroughfare shall not be allowed unless necessary to improve traffic movement or safety, increase sight distances, or for similar reasons.

- (b) [Corner Lots]

Ingress to and egress from a corner lot or lots may be limited to the more minor thoroughfare and shall be prohibited within two hundred (200) feet of the intersection along the major thoroughfare. Ingress to and egress from reverse frontage lots shall be limited to the more minor thoroughfare.

- (c) [To and From Access or Reverse Frontage Roads]

No restrictions are placed upon the number of points of ingress and egress between a lot or lots and a private access or reverse frontage road. If such roads are dedicated to the public, the number of points of ingress and egress which are allowed shall be determined by the governmental agency or body having the authority to accept the road.

- (d) [Standards]

All points of ingress and egress and access roads and reverse frontage roads shall be designed, constructed, and maintained according to sound engineering principles and any applicable standards of the State Department of Transportation.

- (e) [Joint Ingress and Egress]

If the owners of two (2) or more lots jointly provide a direct point of both ingress and egress, or an access or reverse frontage road, to serve their lots, adequate provisions shall be made by dedication, covenants, restrictions, or legal instruments for ensuring that such points of ingress and egress on such roads are provided and maintained consistent with the regulations and intent of this Section of the Code.

- (f) Spacing Standards

1. [Intent]

The spacing standards of this Section are intended to improve the compatibility of roadside uses with adjacent thoroughfares by ensuring the separation and proper location of points of ingress and egress.

2. [Major thoroughfares]

The spacing requirements for lots with direct points of ingress and egress to major thoroughfares:

- a. For lots with general uses, a minimum of one hundred (100) feet;
- b. For lots with special uses, a minimum of two hundred (200) feet.

3. [Measurement]

The spacing requirements of this Section shall be measured from the centerlines of the nearest points of ingress and egress; and the spacing of direct points of ingress and egress for different lots shall be spaced as evenly as possible.

4. [Reductions due to hardship]

Where topography, line of sight distances of motorists, vegetation, geological formations, or other site characteristics are such that strict adherence to spacing dimensions would impose unnecessary hardship upon the permit applicant or undue hazard to the motoring public, the enforcement officer may authorize a decrease in the spacing dimensions of up to twenty (20) percent, provided that a record of why such a decrease is necessary is made a part of the permit.

(g) Paving of Entrance for Special Uses

All points of ingress and egress and all access roads which serve lots for special uses shall be paved for at least the first fifty (50) feet nearest to the major thoroughfare to which it connects.

(8) Additional Special Use Standards

- (a) No use requiring a discharge permit, or engaged in the manufacture, processing, or storage of chemicals, toxic materials, or petroleum products in solid or liquid form, except for service stations, shall be permitted in this District when it is mapped in a water supply watershed so designated by State or County agencies.

(9) Performance Standards

All general and special uses shall comply with the performance standards contained in Section 1-1-27 of this Code.

(10) Multiple Uses of Buildings and Lots

- (a) If both general and special uses are located on the same lot, the lot shall comply with the minimum lot width and other regulations for special uses.
- (b) Unless this Code expressly provides otherwise, only one (1) principal building or structure may be located on a building lot, but each building or structure may contain more than one (1) dwelling unit or principal use.
- (c) If ingress to and egress from a lot or lots is provided by an access road or reverse frontage road, one (1) or more principal buildings or structures may be located on the

lot or lots as provided in an approved site plan and special use permit; and each building or structure may contain one (1) or more dwelling units or principal uses as provided in Subsection (D)(10)(b) of this Section. However, no permit shall be issued unless the petitioner submits evidence showing sufficient control over the lot or lots to ensure compliance with the approved site plan.

(11) Off-Street Parking

Each lot shall provide off-street parking in conformance with Section 1-1-28 of this Code and Subsection (D)(5)(a)3. of this Section.

[Former Subsection (12), containing sign standards, deleted 7/16/84 (R-84-156) - see Section 1-1-21]

(12) Transitional Bufferyards and Screening

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-41, the Section 1-1-29 requirements shall control. *[Added 6/15/87 (R-87-64)]*

Table A: Uses Permitted in Highway District

Use	No Permit Required	General Use Permit	Special Use Permit
Forestry	X		
Roadside stands offering for sale only agricultural products produced on the premises, as an accessory use to a bona fide farm <i>[Amended 7/20/92 to substitute for "Stands and offices for the sale of agricultural products grown on premises." (O-92-17)]</i>		X	
Single-family dwellings		X	
The offices of resident members of recognized professions such as physicians, dentists, engineers, lawyers, artists, and architects		X	
Home occupations such as dressmaking, music teaching, and beauty parlors, provided that: such professions and occupations shall be engaged in only by residents of the premises; no more than fifty (50) percent of the floor area of a dwelling shall be used for such occupations; no display of products nor any advertising, except as specified in Section 1-1-21, shall be visible from the street; and no accessory buildings shall be used for such home occupations		X	
Multifamily dwellings			X
Churches and other places of worship, including parish houses and Sunday schools			X
Colleges, schools, libraries, museums, and galleries			X
Cemeteries, subject to provisions of Section 1-1-37(D)(11)			X
Family burial grounds, subject to provisions of Section 1-1-37(C)(6)		X	
Publicly operated recreation buildings, playgrounds, parks, and athletic fields			X
Hospitals, sanatoria, philanthropic or educational institutions, but no penal or correctional institutions			X
Buildings which are used exclusively by federal, state, or local government for public purposes			X
Privately operated indoor and outdoor recreation facilities, including camps, golf courses, marinas, riding clubs, and other similar uses			X
Static transformer stations, radio and television towers, and transmitting or relay station			X
Telecommunication towers as permitted under Section 1-1-37(C)(16) and (17)		X	
Telecommunication towers as permitted under Section 1-1-37(E)(2)			X
Transmission lines, towers, and telephone exchanges		X	
Skeet, trap, and rifle clubs and areas, provided: that any shooting station shall be at least one thousand (1,000) feet from any adjacent property line; a wooded buffer at least three hundred (300) feet wide consisting of primarily evergreen trees shall exist or be planned and propagated between the firing area and adjoining property; and that the plans show adequate			X

Use	No Permit Required	General Use Permit	Special Use Permit
fencing and other safety measures immediately surrounding any danger area			
Offices, clinics, and medical and dental laboratories			X
Hotels, motels, tourist homes, rooming and boarding houses			X
Retail stores and service establishments			X
Automobile sales of new and used vehicles, service stations, and repair shops			X
Businesses providing service to customers in their vehicles			X
Off-premise signs <i>[Added 7/16/84 as substitute for "commercial advertising signs" (R-84-156)]</i>			X
Shopping centers			X
Wholesale establishments primarily engaged in the sale of merchandise for resale to the public			X
Warehousing			X
Public airfields and landing strips			X
Establishments processing for the direct consumption of the principal products which are customarily delivered to individuals or retail outlets, as, for example, baking plants, bottling plants, printers, cleaning and dyeing establishments			X
Industrial-I uses, as defined in Section 1-1-39			X
Accessory uses			X
The expansion, alteration, change, or restoration of nonconformities			X
Family care home (six (6) or fewer residents) <i>[Added 6/16/86 (R-86-100)]</i>		X	
Group homes (seven (7) or more residents) <i>[Amended 6/16/86 to add "(seven (7) or more residents)" (R-86-100)]</i>			X
Kennels, subject to provisions of Section 1-1-37(D)(6) in the residential section of this Code			X
Small child day care homes, as an accessory use to a residential dwelling unit <i>[Added 2/17/92 (O-92-5)]</i>	X		
Large child day care homes, as an accessory use to a residential dwelling unit <i>[Added 2/17/92 (O-92-5)]</i>		X	
Child day care centers, and large child day care homes other than those permitted as an accessory use to a residential dwelling unit <i>[Added 2/17/92 (O-92-5)]</i>			X
Modular sales offices, subject to provisions of Section 1-1-37(C)(15) <i>[Added 8/16/93 (O-93-11)]</i>		X	
Bed and breakfast homestays, as an accessory use to residential dwellings, and subject to the standards in Section 1-1-37(E)(4) <i>[Added 7/18/94 (O-94-16)]</i>			X
Bed and breakfast residences, subject to the standards in Section 1-1-37(D)(12) <i>[Added 7/18/94 (O-94-16)]</i>			X

[Table A added 4/2/79; amended 7/20/92 to delete the uses "general farming," "specialized horticulture," "specialized animal husbandry," and hobby farming" (O-92-17); amended 4/15/96 to delete the use "Consolidated Open Space Developments" (O-96-7); amended 12/16/96 to add the uses "Telecommunication towers as permitted ..." (O-96-51)]

[Section added 5/7/62]