

BURLINGTON, N. C.
ZONING ORDINANCE

SECTION 32.13: SPECIAL USE REGULATIONS

- A. Purpose: Special Use Permits add flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special Use Permit procedure, property uses that would otherwise be undesirable in certain districts can be developed to minimize any ill effects they might have on surrounding properties.

Other sections of this chapter set forth the uses that may be established, as a matter of right, in each of the districts and specify various lot dimensions and space requirements that must accompany each established use. Some land uses, however, have a particular impact on the surrounding area that cannot be predetermined and controlled by general regulations. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development, their establishment shall not be as a matter of right but only after review and approval as hereafter provided.

- B. Administration of Special Use Regulations: **(Amendment adopted June 3, 2003)**

The uses for which Special Use Permits are required are listed in this section along with requirements for submission. Uses specified in this section shall be permitted only upon issuance of a Special Use Permit.

Such Special Use Permit shall not be valid, and no building permit issued thereon, until it has been fully executed and recorded in the office of the Burlington City Clerk.

1. Special Use Permits Issued by the Board of Adjustment:

- a. A Special Use Permit may be issued by the Board of Adjustment for those uses so indicated in this section. The application for a Special Use Permit shall accompany or precede the application for a building permit and/or a Certificate of Occupancy, where such permit or certificate is required. For other uses for which a Special Use Permit is required, application shall be made for such permit prior to commencing the particular special use of the land.

The application shall be transmitted forthwith to the Board of Adjustment. After a public hearing, the Board of Adjustment may grant or deny the Special Use Permit requested. The Special Use Permit, if granted, shall include such approved plans as may be required. In granting the permit, the Board of Adjustment shall find: **(Amendment adopted June 3, 2003)**

- (1) that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 - (2) that the use meets all required conditions and specifications;
 - (3) that the use will not substantially injure the value of adjoining or abutting property or that the use is a public necessity; and,
 - (4) that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Burlington and its environs.
- b. In granting the permit, the Board of Adjustment may designate such conditions in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the special permit or on the plans submitted therewith. All conditions shall run with the land and shall be binding on the original applicants for the Special Use Permit, their heirs, successors and assigns. **(Amendment adopted June 3, 2003)**
- c. If the Board of Adjustment denies the Special Use Permit, the reasons therefore shall be entered in the minutes of the meeting at which the permit is denied.
- d. In addition to the specific conditions imposed by the regulations of the use district in which they are permitted.

- e. In the event of failure to comply with the plans approved by the Board of Adjustment or with any conditions imposed upon the Special Use Permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or Certificates of Occupancy under said Special Use Permit shall be issued, and all completed structures shall be regarded as non-conforming uses subject to the provisions of Section 32.14 of this chapter; provided, however, that the City Council shall not be prevented from thereafter rezoning said property for its most appropriate use.
 - f. Where plans are required to be submitted and approved as part of the application for a Special Use Permit, minor modifications of the original plans may be made by the Board of Adjustment. Any substantial change shall be authorized only after a public hearing. **(Amendment adopted June 3, 2003)**
 - g. Expiration of Permits: A Special Use Permit issued by the Board of Adjustment shall be null and void 24 months after the date of its issuance unless construction is begun during said 24-month period.
2. **Deleted by amendment adopted June 3, 2003.**
3. Required Plans and Drawings: Applicants for Special Use Permits are advised to confer with the Planning Director prior to submitting a formal request for a permit in order to allow City agencies to be canvassed for the purpose of ascertaining what information will be required to accompany the permit request. Maps, plans and drawings must be submitted in sufficient detail and at a large enough scale to indicate the extent, location and character of the proposed activity. In addition, the location of the activity in relation to nearby buildings and properties must be clearly indicated. **(Amendment adopted June 3, 2003)**

Depending on the scope and size of the proposed activity, the following information may be required:

- a. Vicinity map showing the location of the property in question with respect to existing and proposed streets, rivers, streams, railroad tracks and other major physical features.
- b. Location and size of all existing and proposed buildings and structures within the site and existing nearby structures not within the site.
- c. Grading plan showing existing and proposed contours at an interval no greater than five feet.

- d. Proposed points of access and egress together with the proposed pattern of internal circulation.
 - e. Proposed parking and loading areas and recreation or open space where appropriate.
 - f. Landscape plan showing the number, location, size and name of each plant species and the proposed treatment of ground cover, slopes, banks and ditches. The landscape plan shall be carried out within one year of the date of issuance of the Certificate of Occupancy. Landscaping shall be permanently maintained.
 - g. Proposed provision for utilities.
 - h. Location, size, height and orientation of all signs.
4. Consideration: Before issuing a Special Use Permit, the Board of Adjustment shall find that satisfactory provision has been made for the following, where applicable: **(Amendment adopted June 3, 2003)**
- a. Vehicle Circulation: Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.
 - b. Parking and Loading: Off-street parking and loading area.
 - c. Effect on Adjacent Property: The economic, noise, glare or odor effects of proposed use on adjacent property.
 - d. Service Entrances and Areas: Refuse and service areas with particular reference to ingress and egress of service vehicles.
 - e. Utilities: Utilities with reference to location and availability.
 - f. Screening: Screening and fencing where necessary to protect adjacent property.
 - g. Signs and Lighting: Exterior lighting and signs with reference to glare, traffic safety, economic effect and compatibility with other property in the area.

- h. Open Spaces: Required yards and other open spaces and preservation of existing trees and other attractive natural features of the land.
 - i. Compatibility: General compatibility with adjacent properties and other property in the area.
 5. All Special Use Permits issued before June 3, 2003, shall be allowed to continue under the regulations that were applicable to the use prior to June 3, 2003. Any special requirements that were part of the issuance of a Special Use Permit will continue to apply to the property. However, when an amendment to a Special Use Permit is requested that is no longer allowed by Special Use Permit in the underlying zoning district, the petitioner may attempt to rezone the property to a general zoning district or Conditional zoning district that allows the use. **(Amendment adopted June 3, 2003)**
- C. Service Facilities, Etc., in OI Districts: Studios and agencies other than those listed in the Table of Permitted Uses and service facilities such as restaurants may be permitted in the OI District, subject to the following requirements:
 1. Approved by: Board of Adjustment
 2. No sales floor space or showrooms shall be provided in connection with a studio or agency.
 3. No display windows shall be open to or visible from the street.
 4. Service facilities must be related to a permitted use on the same premises and must be supported primarily by occupants of the same building.
 5. The total floor area of all service facilities in a building shall not exceed ten percent of the total floor area of the building.
 6. No service facility shall be directly open to or visible from a street.
 7. No signs shall be displayed in connection with service facilities except identification signs. The aggregate size of said identification signs facing any public street shall be limited to one square foot of area per lineal foot of building wall on the side of the building facing said street. Illuminated signs and display lighting shall be shielded so as to prevent direct beaming into Residential Districts or public streets and so to prevent a direct view of the light source from a residence on a residential street or from any public right-of-way.

D. Automobile Service Stations in B-1 Districts: An automobile service station may be permitted in B-1, Neighborhood Business Districts, provided that an application for same is submitted to the Building Inspector, accompanied by plans showing the proposed location and dimensions of all structures to be located on the property; the location, size and approximate height of all existing buildings within 150 feet of the property; locations and names of abutting streets; existing and proposed curb cuts; location, height and materials for proposed walls; fences and/or screen planting; location, size and height of proposed signs; and such other site information as may be necessary to describe completely the proposed development. The following conditions shall be met in addition to all other requirements for the B-1 District:

1. Approved by: Board of Adjustment
2. Permitted activities shall be limited to the sale of gasoline, oil and minor accessories only and the lubrication and washing of automobiles where no repair work is done except minor repairs made by the attendant.
3. The building shall be limited in size to two single-car service bays plus office, sales rooms, restrooms and storage. **(Amendment adopted May 21, 2002)**
4. Garbage, refuse, debris and trash shall be stored entirely within an enclosed building or screened from view of any residential property or public right-of-way by an opaque screen.
5. No flags, banners, pennants or other devices which flutter or revolve and which are designed and used solely to attract attention shall be permitted.
6. All floodlights shall be turned off at the close of business or at 11:00 p.m., whichever is earlier.
7. No lights shall be so arranged as to direct or reflect light into the windows of any residence.
8. No more than two curb cuts shall be permitted on each abutting street. No curb cut shall be wider than 25 feet. No curb cut shall be less than 25 feet from the intersection of any two street curb lines, or in the case of a rounded street corner from the intersection of the street curb lines extended.
9. If the property adjoins a Residential District, the following requirements shall be met:
 - a. An opaque screen shall be provided along any side or rear yard that adjoins residentially-zoned property.
 - b. Side yards adjoining residentially-zoned property shall be at least ten feet in width.
 - c. Rear yards adjoining residentially-zoned property shall be at least 20 feet in width.

- E. Clubs and Lodges: In Residential, OI and B-1 Districts, clubs and lodges shall meet the following requirements:
1. Approved by: Board of Adjustment **(Amendment adopted June 3, 2003)**
 2. Site Size: The minimum site size shall be two acres.
 3. Distance from Property Line: No structure, parking area or activity area shall be located less than 40 feet from any property line.
 4. Screening: An opaque screen shall be provided within the 40-foot space adjacent to the side and rear lot lines.
 5. Lighting: Lighting shall be so shielded as to cast no direct light upon adjacent property.
 6. Public Address Systems: Public address systems shall not be permitted except within a building.
- F. Manufacturing Plants and Public Service Facilities Such as Radio and Television Studios, Telephone Exchanges and Similar Uses Providing Public Services That Were Made Non-Conforming by the Adoption of the Present Zoning Ordinance: **(Moved to Section 32.10:MM by amendment adopted June 3, 2003)**
- G. Planned Unit Developments **(Deleted by amendment adopted June 3, 2003)**
- H. Quarries or Other Extractive Industries: **(Moved to Section 32.10:NN by amendment adopted June 3, 2003)**
- I. Mobile Home Parks: **(Moved to Section 32.10:OO by amendment adopted June 3, 2003)**
- J. Junk Yards: **(Moved to Section 32.10:PP by amendment adopted June 3, 2003)**

- K. Outdoor Storage: The storage of any product or material, including but not limited to lumber yards, coal yards, wood yards, sand and gravel yards and storage of building materials such as pipe, bricks, concrete products and similar outdoor storage that be permitted in B-2, B-3, I-1 and I-2 Districts, subject to the following regulations: **(Amendment adopted June 3, 2003)**
1. Approved by: Board of Adjustment
 2. Screening: An opaque screen shall be provided around all boundaries.
 3. Setback Observance: No required front or rear yard shall be used for such storage.
- L. Storage of Petroleum Products in Quantities Greater Than 100,000 Gallons: Petroleum products storage as a principal or accessory use for wholesale or retail distribution of more than 100,000 gallons aggregate storage capacity may be permitted in B-2 Districts, subject to the following regulations: **(Amendment adopted June 5, 1973)**
1. Approved by: Board of Adjustment **(Amendment adopted June 3, 2003)**
 2. Fire Prevention: All requirements of the Burlington Fire Department and the Fire Prevention Code of the National Board of Fire Underwriters shall be met.
 3. Setbacks: All above-ground storage tanks and loading facilities shall be located at least 50 feet from any front property line.
- M. Townhouses: Townhouses, defined as one or more residential structures comprised of one or more single-family residences intended for owner-occupancy, shall be subject to the following regulations: **(Amendment adopted November 6, 1984)**
1. Approved by: Board of Adjustment through Special Use Permit in R-15, Single-Family Residential Zoning Districts **(Amendment adopted December 19, 2006)**
 2. Dimensional Requirements: See Section 31.10.TT -- Supplementary Use Regulations. **(Amendment adopted December 19, 2006)**
 3. Access: Townhouse developments shall abut a public street. A development comprising 50 or more individual lots shall abut a "Major Thoroughfare" or "Minor Arterial or Collector Street" (existing or proposed) as shown on the Burlington-Graham Thoroughfare Plan and have direct access thereto. Individual townhouse lots need not abut a public street provided that every dwelling unit shall be located within 800 feet of a public street and that access to each dwelling unit shall be provided via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with other property owners in the townhouse development. Adequate access shall be provided for firefighting equipment, service deliveries and refuse collections. **(Amendment adopted May 20, 1986)**

N. Self-Service Automobile Laundry in B-1 Districts:

1. Approved by: Board of Adjustment
2. No outdoor display or storage of merchandise, materials or rubbish shall be permitted.
3. No flags, banners, pennants or other devices that flutter or revolve and that are designed and used solely to attract attention shall be permitted.
4. All floodlights shall be turned off at the close of business or at 11:00 p.m., whichever is earlier.
5. No lights shall be so arranged as to direct or reflect light into the windows of any residence.
6. No more than two curb cuts shall be permitted on each abutting street. No curb cut shall be wider than 25 feet. No curb cut shall be less than 25 feet from the intersection of any two street curb lines, or in the case of a rounded street corner, from the intersection of the street curb lines extended.
7. If the property adjoins a Residential District, the following requirements shall be met:
 - a. An opaque screen shall be provided along any side or rear yard that adjoins residentially-zoned property.
 - b. Side yards adjoining residentially-zoned property shall be at least ten feet in width.
 - c. Rear yards adjoining residentially-zoned property shall be at least 20 feet in depth.

- O. Other Activities Requiring a Special Use Permit: **(Deleted by amendment adopted March 16, 2004)**
- P. Automobile Parking Lots and Access Driveways Serving Nonresidential Uses: Within any R-6, R-9, MF-A, MF-B or O-I District, a Special Use Permit may be issued for a parking lot accessory to any use in any district or for an access drive to a parking lot accessory to any use in any district, subject to the following regulations:
1. Approved by: Board of Adjustment
 2. Findings: The board must find that such a use will tend to relieve traffic congestion in the streets at and near the premises in question or will tend to reduce the number of vehicles moving on or parked on residential streets, thereby lessening noise, dust and fumes and tending to promote vehicular and pedestrian safety.
 3. Location: The property for which a Special Use Permit is requested must be located adjacent to or across a street from the use which the parking lot or access drive will serve.
 4. Such parking lot or access drive shall be operated directly as a convenience to the customers or employees of the principal use to which it is an accessory and shall be so located as to serve this end with a minimum of disturbance to nearby residential uses.
 5. Such parking lot shall not extend into a Residential District more than 200 feet unless the Board of Adjustment makes a special finding that a greater distance will not adversely affect nearby properties.
 6. Such parking lot shall be used for parking only between the hours of 7:00 a.m. and 6:00 p.m. unless lighting is provided for night-time use and the Board of Adjustment finds that night-time use will not adversely affect nearby properties. If provided, lights shall be so arranged that no direct or reflected light or glare shall be a nuisance or hazard to other properties or persons.
 7. Such parking lot shall be paved with an all-weather surface.
 8. An opaque screen shall be provided where the Board of Adjustment finds such a screen necessary to protect nearby property.

- Q. Unified Business Developments: **(Moved to 32.10:QQ by amendment adopted June 3, 2003)**
- R. Telecommunications Towers: **(Moved to 32.10:RR by amendment adopted June 3, 2003)**
- S. Broadcasting Studios (Radio and Television): **(Deleted by amendment adopted June 3, 2003)**
- T. Recycling Facilities: Recycling facilities for the collection, processing and distribution of recyclables may be permitted within the I-2, Light Industrial, and I-3, Heavy Industrial, zoning districts upon the granting of a Special Use Permit subject to the following regulations: **(Amendment adopted October 16, 2007)**
1. Approved by: Board of Adjustment **(Amendment adopted June 3, 2003)**
 2. Recycled batteries must be stored in non-porous containers. All loading and storage areas shall be diked to prevent runoff/spill contamination.
 3. Recycled motor oil and grease shall be stored in above-ground tanks approved by the Chief Building Inspector and the Burlington Fire Chief. All loading and storage areas shall be diked to prevent runoff/spill contamination.
 4. Fencing and an opaque screen may be required where the Board of Adjustment finds such fencing/screening is necessary to protect nearby or adjoining property.

U. Motor Vehicle Towing and Storage Services: Motor vehicle towing and storage services that are engaged exclusively in the towing and storing of wrecked, inoperable, dismantled, abandoned or impounded motor vehicles or businesses that are under local governmental contract providing these services may be permitted by Special Use Permit subject to the following regulations: **(Amendment adopted August 18, 1998)**

1. Approved by: Board of Adjustment
2. Motor Vehicles: A maximum of no more than 50 vehicles at any one time shall be stored on the property. All towed vehicles must be stored in an approved vehicle towing and storage area.
3. Storage Area:
 - a. Size: The minimum size of the fenced storage area shall be 5,000 square feet.
 - b. Security: A chain link fence, a minimum of six feet in height, shall be provided around all accessible sides of the storage area. All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.
 - c. Screening: All motor vehicles within the storage area shall be concealed from view from a public street and from all adjacent residentially-zoned property or property in residential use through screening. Examples of acceptable screening shall include: (1) chain link fence with slats (where such slats are two-inch weave with 1 7/8 inch panel; or 1 1/2 inch weave with 1 3/8 inch panels; or other slat/weave combinations acceptable to the Inspections Director); (2) mesh fabric designed to partially obscure property from view (70 percent obscurity standard); or (3) any fence material screening meeting or exceeding the 70 percent obscurity standard. **(Amendment adopted February 1, 2000)**
 - d. Surface: The storage area shall be maintained with an all-weather surface by paving, gravel or as required in the district in which it is located to minimize dust emissions and the buildup of dirt, mud and other debris.
 - e. Lighting: All lighting shall be shielded so as not to cast direct light upon any adjacent residential property.
 - f. Location: No storage area shall be permitted within 100 feet of any residentially-zoned property or within any required front yard.
4. Storage Buildings: All buildings used to protect stored motor vehicles shall be located on the same lot.

V. Continuing Care Retirement Community (CCRC): **(Moved to 32.10:SS by amendment adopted June 3, 2003)**

W. Child Care Facility: A child care facility shall be defined as a building or premises regularly used within a 24-hour period for recreational or supervisory care of six or more children who are unrelated to the operator, but not including foster homes. **(Amendment adopted March 16, 2004)**

1. Such facilities shall meet the standards established by the North Carolina Department of Health and Human Services and Article 7, Chapter 110, of the North Carolina General Statutes. Evidence of compliance with the above standards (as amended) and other applicable statutes, rules, and regulations shall be furnished by the operator of such child care facility to the Director of Inspections, or his designee, for the City of Burlington. **(Amendment adopted August 18, 1998)**
2. The minimum lot area for a child care facility that cares for ten children or less shall be the same as for a single-family dwelling in the district in which the facility is located or 6,000 square feet, whichever is greater. An additional 1,000 square feet of lot area shall be provided for each ten children over the first ten.
3. At least 100 square feet per child (excluding infants in the crib) of well-drained, completely fenced outside play area, not including drives, parking areas or land otherwise unsuitable, shall be provided.

X. Animal Services: Animal services shall be defined as a facility designed for the care of animals that includes grooming and doggy day care. Animal grooming and day care services may operate within Unified Business Developments, multi-tenant buildings and free standing buildings subject to the following regulations: **(Amendment adopted July 15, 2014)**

1. Overnight boarding of animals shall not be permitted.
2. Outside play areas for animal day cares shall not be located within 100 feet of any residentially zoned property or property being used as residential.
3. No more than one animal grooming, day care or animal grooming and day care in combination operating as one business shall be allowed within a multi-tenant building.
4. No more than one animal grooming, day care or animal grooming and day care in combination operating as one business shall be permitted within a Unified Business Development.

5. Animal services located within multi-tenant structures shall be soundproofed.
6. Free standing animal services located within 100 feet of property zoned residential or being used as residential shall be soundproofed.
7. Animal services located within the B-3 Central Business District shall be conducted within a completely enclosed building. No outside activity shall be permitted.
8. Animal services located within the I-1 Planned Industrial District and I-1A Planned Industrial-Residential District may retail animal related products only. The retail sales area shall not exceed 20 percent of the floor area.
9. For the purposes of this section, animal services does not include kennels or veterinary establishments