



**Town of Cornelius
Land Development Code Advisory Board**

**Agenda
September 23, 2019
5:30 PM
Room 204**

Call To Order

Determination of Quorum

Approval of Minutes

1. August 26th Minutes

Review And Recommendation On Agenda Items

1. TA 02-19 Breweries

Old Business

New Business

1. Transient Occupancy Update
2. Accessory Structure Placement
3. Open Space

Next Meeting

Adjournment

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 23, 2019

To: Chair and LDCAB Members

From: Summer Smigelski, Planning Admin.

Action Requested:

Review and Approve

Manager's Recommendation:

Approval

ATTACHMENTS:

Name:	Description:	Type:
 08262019MinutesLDCAB.docx	August 26, 2019 Minutes	Backup Material

Minutes

TOWN OF CORNELIUS LDCAB

August 26th, 2019

5:30 PM

Members Present

Cheryl Crawford, Chair
Norris Woody, Vice Chair
David Gilroy (left @ 7pm)
Keith Eicher
Bob Bruton
Michael Miltich
Karen Tovar
Joe Dean
Laura Pegram
David Dunn

Members Absent

John Hettwer

Staff Present

Wayne Herron, Deputy-
Manager/Planning Director
Becky Partin, Senior Planner
Summer Smigelski, Admin.

VISITORS

See Sign In Sheet.

DETERMINATION OF QUORUM

Chair Crawford called the meeting to order at 5:34 PM and determined a quorum was present.

APPROVAL OF MINUTES

The Board unanimously approved the June 24th, 2019 Minutes.

Motion made by Vice Chair Woody. Seconded by Ms. Tovar. All in favor, motion approved.

In Favor: Ms. Crawford, Mr. Eicher, Mr. Dunn, Commissioner Gilroy,
Ms. Tovar, Mr. Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean,
Ms. Pegram

Opposed: None

Auto Related Uses

Mr. Herron presented auto related uses to the board. Auto related uses and mini-storage are currently prohibited uses within the Town of Cornelius. An applicant may not file an application for a permit or a conditional zoning unless the use is allowed by permit or by conditional zoning in a general or overlay zoning district. Land Development Code History: Proliferation of automotive sales & service at Exit 28 initiated discussions 2006/2007. Desire for Cornelius to be a walkable, bike-able community. May 5, 2008 - Automotive Sales, Leasing and/or Service uses prohibited within the Town. Only existing automotive sales, leasing and/or service could expand on adjacent properties subject to a Conditional Use Permit; no new uses allowed. September 21, 2015 – added Automotive Sales District Overlay along US 21. Discussed by LDCAB, PB, TB several times since 2015 – including Code update adopted on March 19, 2018. In July 2018 Mr. Evan Miller requested automotive uses be allowed. After reviewing options presented by staff, in September LDCAB recommended no change to the Code. In June 2019, discussed Jack Salzman request to locate on Chartown Road. LDCAB declined to recommend amendment. The Land Development Code 5.2.5 Automotive Sales District Overlay currently states, The intent of the Automobile Sales District Overlay is to allow through conditional zoning, automobile, truck, motorcycle, boat and recreational vehicle (RV) sales as uses in a specific area that would be compatible and appropriate. Automobile rentals shall be allowed by right in the ASD overlay district. Automobile, truck, motorcycle, boat and recreational vehicle (RV) sales and rental uses promote vehicular customer traffic that is more of a regional draw. Therefore,

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uses of this nature should be in those areas that are not designated for neighborhood environments that are designed for pedestrian oriented mixed uses. With CZ automobile, truck, motorcycle, boat, RV sales allowed in specific area:

- Minimum 3 acres required.
- Principal buildings must front a public street & meet architectural requirements.
- Additional conditions for parking lots, landscaping, display, storage, PA systems.
- Service is only allowed as ancillary use.

Automobile rentals allowed by right in ASD-O.

Options for Consideration:

1. No Change
2. Sefton Area Overlay for Auto Related Uses as CZ
3. Torrence Chapel Overlay – add Auto related uses as CZ
4. Allow Auto Body Uses with CZ in all HC zoning area
5. Allow Auto Oriented Uses in the IC zoning district as CZ

Chair Crawford asked for the applicant to come forward.

Bob McIntosh, an attorney at McIntosh Law spoke on behalf of Lake Norman Chrysler Jeep Dodge Ram and the Salzman's.

Mr. McIntosh presented the intended use of both the existing property and the Waltrip property.

After applicant presentation, Mr. Herron opened for discussion and introduced Karen Walter, Town Attorney, for questions.

After extensive discussion the board agreed to recommend approval of the Sefton overlay for auto related uses as conditional zoning going east only from Liverpool. The board also recommends changing the existing business on Highway 21 to highway commercial.

Motion made by Commissioner Gilroy. Seconded by Mr. Woody. All in favor, motion approved.

In Favor: Ms. Crawford, Mr. Eicher, Mr. Dunn, Commissioner Gilroy,
Ms. Tovar, Mr. Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean,
Ms. Pegram, Mr. Dunn

Opposed: None

Noise Ordinance

Ms. Partin presented the current ordinance for sound at places of public entertainment to the board. A person may not operate sound equipment at a Place of Public Entertainment in the Designated Area that produces sound in excess of the following decibel limits:

- 100 dB(A) Sunday – Thursday between 10 AM – 9 PM;
- 75 dB(A) Sunday – Thursday between 9 PM and 10 AM the following day;
- 100 dB(A) Friday or Saturday between 10 AM and 11 PM;
- 75 dB(A) Friday or Saturday between 11 PM and 10 AM the following day;

In addition to the above, a Place of Public Entertainment may be cited for a Vibration Offense if an occupant of a residentially occupied structure reports a noise disturbance as defined by a Vibration Perception Threshold that is verified by the responding officer. ***2 citations have been issued for Vibration Offense.*

On the following days and times, the 100 dB(A) maximum shall become effective:

- 1) New Year's Eve (December 31) at 12:30 AM on New Year's Day (January 1);
- 2) Saint Patrick's Day (March 17) at 11 PM;
- 3) Independence Day (July 4) at 11 PM;

TOWN OF CORNELIUS LDCAB

August 26th, 2019

- 4) The Sunday immediately preceding Memorial Day (last Monday of May) at 11 PM;
- 5) The Sunday immediately preceding Labor Day (first Monday of September) at 11 PM.

“Designated Area” – Places of Public Entertainment located within and south of the Automotive Sales District Overlay on U.S. Highway 21 and the Business Campus and Town Center zoning districts, as designated on the Land Development Map.

“Place of Public Entertainment” – Any location within the Designated Area(s), exterior or interior to a building that regularly permits public entrance for entertainment purposes. For this purpose, “public” means citizens of all types, including but not limited to children.

Areas/Places not affected by the new code:

- Future Arts District (if beyond Town Center)
- Alexander Farm property
- Port City Club
- Hello Sailor
- The Harp & Crown
- Tropicana
- Kenton Place
- One Norman Square (Planet Fitness center)

For several days staff measured ambient noise levels. (See measurements attached)

Staff Observations on SLM measurements are:

- Maximum dB(A) readings at West Catawba were consistent and higher than at Highway 21
 - ☐ Densely built area on the west side of West Catawba
 - Sound is more contained in the measurement location
 - ☐ Elevation drops 6'-8' on the west side of Highway 21
 - Allows sound to disperse to the west
- Will ambient noise levels increase after school starts (presumably higher traffic volumes)?

Ms. Partin presented the proposed code changes to the board:

- Reduce maximum allowed dB(A) to 85
- Allow the Town to waive violation penalty if respondent makes permanent improvements or modifications to the establishment, including but not limited to installation of appropriate sound insulation, isolators, suspension mounting and/or sound mitigation devices or materials.

Chair Crawford thanked staff and asked for anyone wishing to speak please come forward.

Paula Dukes spoke in favor of keeping the noise level at 100dB.

Tom and Dianne Rider, at 7824 Village Harbor Dr. in Cornelius, spoke in favor keeping the noise level at 100dB.

After discussion the Board unanimously agreed to recommend keeping the dB level at 100.

Motion made by Mr. Woody. Seconded by Mr. Bruton. All in favor, motion approved.

In Favor: Ms. Crawford, Mr. Eicher, Mr. Dunn, Ms. Pegram,
Ms. Tovar, Mr. Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean,

Opposed: None

TOWN OF CORNELIUS LDCAB

August 26th, 2019

TA 02-19 Breweries

Deferred to next meeting.

Transient Occupancy Update

Deferred to next meeting.

Accessory Structure Placement

Defer to next meeting.

Open Space

Defer to next meeting.

Election of Chair & Vice Chair

The board agreed to recommend Ms. Crawford as Chair.

Motion made by Commissioner Miltich. Seconded by Mr. Woody. All in favor, motion approved.

In Favor: Ms. Crawford, Mr. Eicher, Mr. Dunn, Ms. Pegram,
Ms. Tovar, Mr. Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean,

Opposed: None

The board agreed to approve Mr. Woody as Vice Chair.

Motion made by Commissioner Miltich. Seconded by Mr. Dunn. All in favor, motion approved.

In Favor: Ms. Crawford, Mr. Eicher, Mr. Dunn, Ms. Pegram,
Ms. Tovar, Mr. Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean,

Opposed: None

Adjournment

Commissioner Miltich made a motion to adjourn the meeting at 7:11 pm. Mr. Eicher seconded. All in favor and motion approved.

In Favor: Ms. Pegram, Mr. Eicher, Mr. Dunn, Commissioner Gilroy
Ms. Tovar, Vice Chair Woody, Mr. Bruton, Mayor Pro Tem Miltich, Mr. Dean

Opposed: None

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 23, 2019

To: LDCAB Members
From: Becky Partin
Senior Planner

Action Requested:

On May 30, 2019 the Governor signed the "Craft Beer Distribution and Modernization Act" into law. The law allows breweries to produce and sell up to 100,000 barrels annually.





In accordance with the new law, staff is recommending changes to the Land Development Code:

- Modify the definition of a microbrewery (Chapter 2) to be an establishment where up to 100,000 barrels of beer and malt beverages are made on the premises and sold/distributed. The current limit is 15,000 barrels.
- Modify the definition of a large brewery (Chapter 2) to be an establishment where 100,000 or more barrels of beer and malt beverages are made on the premises and sold/distributed.
- Remove large brewery as a use allowed in Business Campus (Chapter 5).

Manager's Recommendation:

Review proposed changes and make recommendation.

ATTACHMENTS:

Name:	Description:	Type:
 HB_363.pdf	House Bill 363	Backup Material
 Ch_02_Definitions.pdf	LDC Ch 2 - Definitions	Backup Material
 CH_05_Zoning_Use_Regulations-Use_Table.pdf	LDC Ch 5 Use Table	Backup Material
 CH_06_Uses_Permitted_With_Conditions.pdf	LDC Ch 6 - Uses Permitted with Conditions	Backup Material

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2019-18
HOUSE BILL 363

AN ACT TO CONFIRM THE STATE'S SUPPORT OF THE THREE-TIER SYSTEM FOR DISTRIBUTION OF MALT BEVERAGES AND THE FRANCHISE LAWS, TO MAKE ADJUSTMENTS TO MODERNIZE THE EXEMPTIONS TO THE THREE-TIER SYSTEM, AND TO PROMOTE THE GROWTH OF SMALL AND MID-SIZED INDEPENDENT CRAFT BREWERIES.

Whereas, the General Assembly reaffirms its support of the Beer Franchise Law and the three-tier system for the distribution of malt beverages and finds that the Beer Franchise Law and the three-tier system does all of the following:

- (1) Promotes consumer choice and product variety by providing a platform that enables new malt beverage products to come to market that might not otherwise be available to the consumer. These laws encourage wholesalers to make investments in their businesses necessary to expand distribution of new products and to allow large and small breweries alike an opportunity to enter the market through independent distribution. Wholesaler investments include adding resources such as warehouses, personnel, vehicles, equipment, merchandise, and marketing. Consumers have access to an exceedingly wide array of malt beverage products, unlike other industries that foster closed distribution networks and vertical integration.
- (2) Promotes the growth of the craft beer industry by providing suppliers with access to markets outside of the brewery. Brewers that use wholesalers are able to instantly access and utilize a wholesaler's established infrastructure in markets they may not otherwise be able to enter. Smaller breweries further benefit because wholesalers are able to act independently to carry all brands, from large and small suppliers. The goal of these laws is to allow brewers of all sizes to fairly compete in the marketplace and to access retailers of all sizes.
- (3) Helps ensure that the industry, as a whole, complies with the alcohol laws of this State. A wholesaler must remain independent and free from unfair conduct to promote responsible sales and marketing practices. Wholesaler independence also promotes and maintains fair dealing among industry participants. Ultimately, these measures protect consumers and the public from abuses that might occur absent the three-tier system.
- (4) Promotes a vibrant marketplace that carefully balances fair competition with health and public safety concerns. The Beer Franchise Law and the three-tier system ensure that all three tiers operate independently and on a level playing field so that no one participant or sector of the industry becomes too dominant over the others. These laws allow for fair checks and balances in the beer industry. Wholesaler independence further creates a transparent and accountable distribution system that assists in identifying improper marketing practices and potentially unsafe products when issues arise and provides brewers that engage a wholesaler with an established means to access new markets.



- (5) Prevents vertical integration of the manufacturing, distribution, and retail tiers. This still occurs in other countries today where adverse health and public safety effects are observed. The historical three-tier system model incorporated a deliberate regulatory structure that prevents monopolization. However, as the number of beer industry participants has grown substantially, it is necessary to make important adjustments to the three-tier system to promote the overall success of the beer manufacturing industry in North Carolina by recognizing the different stages of brewery development.
- (6) Assists in collecting excise taxes, particularly from nonresident suppliers. While self-distributing resident breweries are required to remit excise taxes directly to the Department of Revenue, wholesalers collect and remit the excise tax on malt beverages on behalf of resident and nonresident suppliers to the Department of Revenue, totaling approximately \$140 million in excise taxes each year to the State.
- (7) Promotes local regulatory control, temperance, and moderate consumption of malt beverages. The three-tier system in particular incorporates features to promote healthy competition in the marketplace while minimizing overly-aggressive marketing practices, such as limits on quantity discounts, requirements of nondiscriminatory treatment among wholesalers and retailers, and limits on advertising and promotional materials. The three-tier system also provides clear chain of custody for products in distribution, which enables law enforcement to easily track products in the marketplace when issues arise.
- (8) Provides a vital platform that promotes product safety for consumers. Malt beverage distributors invest heavily in infrastructure, such as modern warehouses and vehicles, that maintain product integrity during distribution. There are also strict record-keeping requirements, which enable wholesalers to readily track malt beverage products sold in the market for prompt return in the event of a product recall.
- (9) Encourages wholesalers, under the Beer Franchise Law, to invest capital and labor for suppliers of all sizes, large and small, to expand into new markets with new products. Unfair or arbitrary termination is prohibited, but suppliers who are subject to the Beer Franchise Law are still afforded the ability to terminate a distribution agreement for good cause. The Beer Franchise Law inhibits forced consolidation among wholesalers. The three-tier system also affords small retailers the same market access opportunities to the same wide selection of brands that other large-scale retailers have, and on equal terms.

Whereas, the General Assembly also reaffirms its support of the craft beer industry and makes the following findings:

- (1) The current small-brewery provisions of Chapter 18B of the General Statutes were intended to foster the growth of small craft breweries while simultaneously protecting wholesalers from the risk of economic uncertainty. Since the adoption of those provisions, however, the craft beer industry has seen exponential growth. The craft beer industry now provides a significant source of high-quality manufacturing and service employment and wages and generates significant tax revenue for the State. In addition, the growth of the craft beer industry has resulted in significant positive secondary impacts on the economy through increased business to a myriad of suppliers to the craft breweries, resulting in even greater employment and tax revenue for the State's citizens.
- (2) It is in the best interest of the State to continue supporting the entrepreneurial spirit and economic growth driven by the craft beer industry. Yet it remains

vital to preserve the integrity of the State's three-tier system. Today, mid-sized independent breweries possess only a fraction of the malt beverage market in light of increased consolidation and globalization of large suppliers. Consequently, the growth of these mid-sized independent breweries promotes economic development, employment and wages, and significant tax revenue without the same risks of harm that the three-tier system is designed to minimize.

- (3) In view of these new market realities, the existing small brewery provisions of Chapter 18B of the General Statutes warrant revision. Specifically, recognition for a new category of breweries, Mid-Sized Independent Breweries, is needed to reflect the market's evolution, foster the continued growth of the craft beer industry, promote consumer choice, ensure access to market, and promote stable and healthy competition in the malt beverage industry in this State. The following legislative enactments are expressly intended to further these purposes.

Whereas, the General Assembly finds that regulation of the malt beverage industry and the objectives sought to be achieved by this act fall squarely within the authority granted to the State by the 21st Amendment to the United States Constitution and the inherent police powers of this State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-100 reads as rewritten:

"§ 18B-100. Purpose of Chapter.

This Chapter is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages in North Carolina, and to provide procedures to insure the proper administration of the ABC laws under a uniform system throughout the State. This Chapter shall be liberally construed to the end that the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages shall be prohibited except as authorized in this Chapter. If any provision of this Chapter, or its application to any person or circumstance, is determined by a court or other authority of competent jurisdiction to be invalid or unconstitutional, such provision shall be stricken and the remaining provisions shall be construed in accordance with the intent of the General Assembly to further limit rather than expand commerce in alcoholic beverages, and with respect to malt beverages, unfortified wine, and fortified wine, the remaining provisions shall be construed to enhance strict regulatory control over taxation, distribution, and sale of alcoholic beverages through the three-tier regulatory system and the franchise laws imposed by this Chapter.

Except as provided in this Chapter, local ordinances establishing different rules on the manufacture, sale, purchase, transportation, possession, consumption, or other use of alcoholic beverages, or requiring additional permits or fees, are prohibited."

SECTION 2. G.S. 18B-1104(a)(8) reads as rewritten:

- "(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale ~~only up to 50,000 barrels of malt beverages manufactured by the brewery.~~ brewery per year to unaffiliated retail permittees. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~25,000–100,000~~ barrels of malt beverages produced by it per year. The barrelage limitations set forth in this subdivision apply regardless of the number or type of permits that may be issued to a brewery under this Chapter. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under

subdivision (6a) of this subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter. Except as provided in G.S. 18B-1116(b), the Commission shall have no authority to grant an exemption to or otherwise allow a brewery permittee more than the three additional retail locations authorized by this subdivision. Malt beverages manufactured by a supplier permittee that owns five percent (5%) or more of a brewery permittee acting under the authority granted in this subdivision shall be included in determining whether the brewery permittee complies with the barrelage limitations set forth in this subdivision."

SECTION 3. G.S. 18B-1116 reads as rewritten:

"§ 18B-1116. Exclusive outlets prohibited.

...

(b) Exemptions. – The Commission may grant exemptions from the provisions of this section. Any exemption entered by the Commission in which any brewery or any officer, director, or affiliate of the brewery has a direct or indirect financial interest in the business of any retailer beyond the number of additional retail locations authorized by G.S. 18B-1104 shall prohibit the brewery's malt beverages from being sold to or purchased by that retailer. In determining whether to grant an exemption, the Commission shall consider the public welfare, the quantity and value of articles involved, established trade customs not contrary to the public interest, and the purposes of this section.

...."

SECTION 4. G.S. 18B-1300 reads as rewritten:

"§ 18B-1300. Purpose.

Pursuant to the authority of the State under the Twenty-First Amendment to the United States Constitution, the General Assembly finds that regulation of the business relations between malt beverage manufacturers and importers and the wholesalers of such products is necessary to:

- ...
- (5) Prevent unfair or unlawful trade practices by enabling wholesalers to refuse to participate in such practices without fear of arbitrary or unlawful retribution from suppliers.
 - (6) Provide wholesalers with rights and remedies in addition to those existing by contract or common law.
 - (7) Govern all agreements between suppliers and wholesalers, including any renewals or amendments.
 - (8) Protect wholesalers against unfair treatment by suppliers.
 - (9) Preserve investments made by wholesalers in franchise agreements through minimization of arbitrary termination.
 - (10) Promote consumer choice by ensuring an independent wholesale distribution tier that enables wholesalers to distribute competing products of other suppliers.
 - (11) Prevent vertical integration of the malt beverage market."

SECTION 5. G.S. 18B-1305(a1) reads as rewritten:

"(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice

of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction. This subsection only applies to a brewery that sells to consumers at the brewery, to wholesalers, to retailers, and to exporters fewer than 25,000 barrels of malt beverages produced by it per year. Malt beverages manufactured by a supplier permittee that owns five percent (5%) or more of a brewery permittee shall be included in determining whether the brewery permittee complies with the barrelage limitations set forth in this subdivision. For purposes of this subsection, the term "barrel" is as defined in G.S. 18B-1104."

SECTION 6. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 7. This act does not apply to any exemption order or amendment thereto entered by the Alcoholic Beverage Control Commission prior to the effective date of this act, or to any such exemption order or amendment that is renewed or reissued by the Commission after the effective date of this act.

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2019.

s/ Daniel J. Forest
President of the Senate

s/ David R. Lewis
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 1:35 p.m. this 30th day of May, 2019

Brewery, Large

An establishment where beer and malt beverages are made on the premises at an annual rate of ~~15~~100,000 or more barrels (~~~465,000 gallons~~) per year and may contain a taproom



Brewery, Micro

An establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than ~~15~~100,000 barrels (~~~465,000 gallons~~) per year. The brewer may sell to a retailer or directly to a customer.

CHAPTER 5: ZONING & USE REGULATIONS

P - Permitted By Right

PC - Permitted w/ Supp.

Conditions

S -Special Use Permit Required

**CZ - Conditional Zoning Approval
Required**

A - Accessory Use Only

**AC - Accessory w/ Supp.
Conditions**

<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Adult Establishment*								CZ			
Agricultural Uses	P										
Animal Hospital and Boarding & Grooming Service (no outdoor kennels)				P		P	P	P			P
Animal Hospital (w/outdoor kennel)								CZ			CZ
ATM (Automated Teller Machine)				AC	AC	AC	AC	AC	AC	AC	AC
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Repair & Service*											
Automobile, Recreational Vehicle, Boat & Tractor Trailer Parking/Storage*											
Automobile, Truck, Motorcycle, Boat, Manufactured Home, Recreational Vehicle Sales & Rental*											
Bar				A	AC	A	A	A	A	A	A
Bed & Breakfast Inn	PC		PC	PC	PC	PC	PC				
Brewery, Large (100,000+ barrels)									PC		PC
Brewery, Micro (up to 100,000 barrels)				CZ	CZ	PC	PC	PC	PC	PC	PC
Bus Stop Shelter				PC	PC	PC	PC	PC	PC	PC	PC
Car Wash – Automatic & Self Service								CZ			
Cemetery/Columbarium	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC	AC
Child Care/Preschools				PC	AC	PC	PC	PC	PC	PC	
Civic*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
Commercial, Retail & Service Uses 0 - 9,999 square feet				P	P	P	P	P	P	P	
Commercial, Retail & Service Uses 10,000 - 29,999 square feet				CZ	CZ	P	P	P	P	P	
Commercial, Retail & Service Uses 30,000 - 49,999 square feet				CZ	CZ	CZ	CZ	P	P	P	
Commercial, Retail and Service Uses 50,000+ square feet						CZ	CZ	CZ	CZ	CZ	
Convenience Store							PC	PC	PC	PC	
Country Club*	CZ	CZ	CZ		CZ			CZ			
Cruise/Excursion/Dinner Boat				PC	AC		PC				

CHAPTER 5: ZONING & USE REGULATIONS

P - Permitted By Right
PC - Permitted w/ Supp.
Conditions

S -Special Use Permit Required
CZ - Conditional Zoning Approval
Required

A - Accessory Use Only
AC - Accessory w/ Supp.
Conditions

<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Distribution/Wholesale									P		P
Drive-Through Facilities (Excluding Restaurants)				PC	PC	PC	PC	PC	PC	PC	PC
Duplex			PC	PC							
Dwelling, Manufactured Home, Class A	PC										
Dwelling, Multi-Family*				CZ			CZ			CZ	
Dwelling, Single-Family	P	P	P	P						CZ	
Essential Services, Class I & Class II	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC
Essential Services, Class III											CZ
Essential Services, Class IV	CZ	CZ	CZ	P	P	P	P	P	P	P	P
Events/Gathering Facility, Indoor				CZ	CZ	CZ	CZ	P	P	P	P
Events/Gathering Facility, Outdoor	CZ			CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Firing Range (Indoor only)											CZ
Funeral Homes/Crematory				PC			PC	PC			
Golf Course	CZ	CZ						CZ			
Golf Driving Range	AC	AC						PC			
Golf, Miniature				CZ	P	P	P	P			
Greenways and Trails	P	P	P	P	P	P	P	P	P	P	P
Home Occupation	AC	AC	AC	AC	AC	AC	AC				
Hospital								CZ	CZ	CZ	
Hotel, Motel, Inn				CZ	CZ	CZ	CZ	PC	PC	PC	
Innovative Master Planned Development	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Kennel*	CZ							CZ			CZ
Manufacturing, Heavy											PC
Manufacturing, Light									P	P	P
Mining/Fracking/Quarry Operations											
Mini-Warehouse/Storage											
Mixed Use Building				PC	PC	PC	PC				
Nightclub*					CZ	CZ	CZ	CZ	CZ	CZ	
Nursery (wholesale only)	CZ										
Office				P	P	P	P	P	P	P	A
Park	P	P	P	P	P	P	P	P	P	P	P
Park & Ride Facility				CZ		PC	PC	PC	PC	PC	PC
Parking Area and/or Facility	AC	AC	AC	AC	AC	CZ	AC	AC	AC	AC	AC
Private Club					PC	PC		PC			
Recreation Center, Public (0 – 14,999 square feet)				P		P	P	P	P	P	P

CHAPTER 5: ZONING & USE REGULATIONS

P - Permitted By Right
PC - Permitted w/ Supp.
Conditions

S -Special Use Permit Required
CZ - Conditional Zoning Approval
Required

A - Accessory Use Only
AC - Accessory w/ Supp.
Conditions

<u>Use Category</u>	<u>RP</u>	<u>GR</u>	<u>NR</u>	<u>NMX</u>	<u>WMX</u>	<u>TC</u>	<u>VC</u>	<u>HC</u>	<u>BC</u>	<u>CO</u>	<u>IC</u>
Recreation Center, Public (15,000+ square feet)				CZ		P	P	P	P	P	P
Recreation Facilities	CZ	CZ	CZ	CZ	PC	PC	PC	PC	AC	AC	PC
Rental Cottages	AC	AC	AC	AC							
Residential Care Facility	PC	PC	PC	PC							
Residential Care Home	PC	PC	PC	PC							
Restaurant, Drive Through							PC	PC			
Restaurant, Non-Drive Through				P	P	P	P	P	P	P	
Restaurant, Brewpub				CZ	PC	PC	PC	PC	PC	PC	
Salvage											
School, Elementary, Middle, Senior High and College (public & private)*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
School, Vocational*				CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Small Wireless Facility* (Wireless Facility, Small)	S	S	S	S	S	PC	PC	PC	PC	PC	PC
Storage, Outdoor	AC	AC	AC					AC			AC
Subdivision, Conservation Rural*	CZ										
Subdivision, Conservation Low*	CZ										
Subdivision, Conservation Medium*	CZ										
Subdivision, Family	PC										
Subdivision, Farmhouse Cluster	PC										
Subdivision, Major	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ
Subdivision, Minor	P	P	P	P	P	P	P	P	P	P	P
Taproom				AC	AC	AC	AC	AC	AC	AC	AC
Traditional Neighborhood											
Transient Occupancy	PC			PC		PC	PC				
Transient Occupancy in multi-family buildings only		PC	PC								
Warehouse									A		P

* See Chapter 6 for specific conditions.

CHAPTER 6: USES PERMITTED WITH CONDITIONS

- F. Bed and Breakfast Inns in the NR district are permitted only on property fronting Main Street or Catawba Avenue.

6.2.7: BREWERY, LARGE

- A. Outdoor storage of goods and materials used in assembly, fabrication, or processing shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.
- B. A Type 'A' screening buffer is required where a large brewery is adjacent to a residentially zoned property.

6.2.8: BREWERY, MICRO

- A. Production cannot exceed ~~15,000~~ 100,000 barrels (~~~465,000 gallons~~) of beer per year.
- B. Shall provide a taproom, except if located in IC.
- C. Outdoor storage of goods and materials shall not be permitted in the Neighborhood Mixed Use, Town Center, Village Center Districts, or Waterfront Mixed Use.
- D. Outdoor storage of goods and materials used in assembly, fabrication, or processing in the Business Campus, Corporate Office, and Highway Commercial Districts shall be screened from view, and shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.
- E. ~~Must not operate outside the facility between the hours of 9:00 pm and 7:00 am.~~
- F. A Type 'A' screening buffer is required where a microbrewery is adjacent to a residentially zoned property.

6.2.9: BUS STOP SHELTERS

- A. Bus stop shelters shall be visually and functionally compatible with surrounding development.
- B. Seating and protection from the weather shall be provided.
- C. A trash receptacle shall be provided.
- D. All bus stop shelters shall be consistent with CATS requirements.

6.2.10: CEMETERY/COLUMBARIUM

- A. Brick walls between 1.5' and 3' are permitted.
- B. Wood or wrought iron fences between 2.5' and 8' are permitted.
- C. Setbacks from all street rights-of-way and adjacent properties to a wall or grave shall be a minimum of eight feet (8').
- D. Tombstones, crypts, monuments, and mausoleums shall be located a minimum of twenty feet (20') from any side or rear lot line and at least thirty feet (30') from a street right-of-way. Greater setbacks shall be observed if otherwise required by the zoning district in which the cemetery is located. Gravesites shall be set back twenty feet (20') from the side or rear lot lines.

6.2.11: CHILDCARE/PRESCHOOLS

- A. Childcare and preschools shall be located on lots which provide ample outdoor play area. Play areas shall be enclosed with a fence, a minimum of twenty-five hundred (2,500) square feet, and located in the rear or side yard. Fences shall be a minimum of six feet (6') in height. Childcare and preschools located adjacent to parks are exempt from this provision.
- B. On-street parking may be used to fulfill parking requirements.



REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 23, 2019

To: LDCAB Members
From: Wayne Herron, AICP
Deputy Town Manager/Director of Planning


Action Requested:

Staff will provide a legislative update.

Manager's Recommendation:

Hear Update

ATTACHMENTS:

Name:	Description:	Type:
 The Short-Term Rental Disruption.pdf	The Short-Term Rental Disruption-article	Backup Material

The Short-Term Rental Disruption

How different communities are working with this popular property usage

By Ben Brown, NCLM Communications and Multimedia Strategist

Short-term vacation rentals are no new concept. Even in the evolved fashion brought about by the internet-driven “sharing economy” under names like Airbnb, HomeAway or VRBO, it’s likely you’re at least aware of these lodging services. Generally in the form of private residences rented out as overnight accommodations, they attract travelers for their palatable

costs, personal charm and location variety. For participating property owners, the short-term rental game can bring relatively easy cash. For their communities, at large, it can mean more options for tourism stays.

It might all sound open-and-shut simple, but there’s a flipside to the popularity. Homes have come to act as hotels in residential zones, often without the regulation put upon the latter to keep tenants and neighbors alike

safe. The activity of an Airbnb, for instance, can be so steady that it impacts the quality of neighbors’ lives. Occupancy, parking, noise, trash volume and other concerns may come to mind. Surrounding homes could even decrease in value if the negatives impose. The rental property itself should also be up to par and free of hazards for the people staying there, it’s hoped.

These and other factors -- not to mention that traditional lodging sites like hotels and motels are sources of occupancy tax revenue that Airbnb-type overnights may not be collecting, in what some would call an uneven playing field -- have inspired interesting local efforts at regulation,



Image credit: iStock



Many, dense residential neighborhoods include homes being used as short-term rentals, which could impact neighbors.
Photo credit: Breno Assis/Unsplash

varying widely per the non-homogenous nature of localities.

"Primarily it was to make sure the users of short-term rentals were protected similarly to those that were maybe renting property through a broker or a rental company," said Michael Zehner, director of planning and development for the Town of Nags Head, which in April joined a handful of North Carolina communities with short-term rental regulations on the books. More

communities are discussing them.

"I think the key reason why is that city government, first and foremost, needs to protect public safety. We have regulations in place for a reason," Brooks Rainwater, senior executive and director of the National League of Cities' Center for City Solutions, said in an interview on the issue with Municipal Equation, the League's podcast.

Rainwater continued: "When you think about some of the challenges

with homesharing (another term for Airbnb-type services), when you stay in a hotel or you stay in a bed and breakfast, there's sprinkler systems, there's fire suppression systems, there's a regular inspection series within commercial buildings that make sure that everything is safe and up to snuff."

Sprinkler requirements and routine inspections might not present the best fit for the standard home but, in many towns, residents are asking for fair regulations to restore neighborhood harmony.

Nags Head's rules take an educational approach. The town simply requires that short-term rental owners register with the town and acknowledge awareness of the Vacation Rental Act, a North Carolina law that spells out the rights, obligations and protections for tenants and landlords of vacation rental property, so these short-term

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rental owners know that professional rental companies indeed have rules and limitations to play by. Nags Head also asks short-term rental owners to provide a local contact person who can respond to any issues that may arise.

Additionally, the town asks registrants if they have liability insurance – not under a requirement to have it, but to highlight the option.

“It’s more of an awareness thing,” said Zehner.

In Cornelius, short-term rentals have to register with the town and complete a \$100 “transient occupancy permit” that would have to be renewed annually. According to information collected by the UNC School of Government and published in the recent book, “Regulation and Taxation of Short-Term Rentals,” by Rebecca L. Badgett and Christopher

“When you think about some of the challenges with homesharing (*another term for Airbnb-type services*), when you stay in a hotel or you stay in a bed and breakfast, there’s sprinkler systems, there’s fire suppression systems, there’s a regular inspection series within commercial buildings that make sure that everything is safe and up to snuff.”

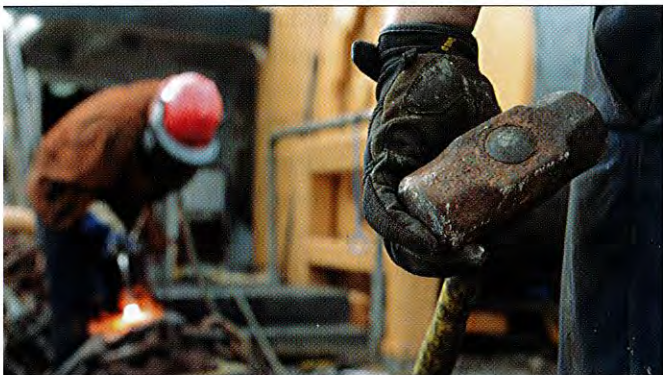
Brooks Rainwater, senior executive and director of the National League of Cities' Center for City Solutions

B. McLaughlin, Cornelius limits these transient lodging sites to one individual tenancy per week, requires a local contact available around the clock to respond to issues, and doesn’t allow special events at these properties. Parking and bedroom occupancy limits also apply.

The Town of Cornelius reports that the ordinance has improved

situations on the ground with short-term rentals.

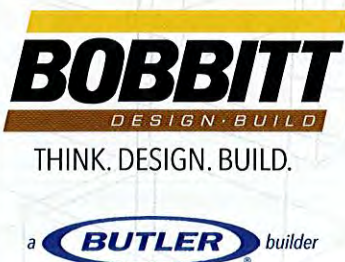
“Prior to adopting our local ordinances, we had substantial issues and disturbances created by these rentals,” Cornelius Town Manager Andrew Grant said in an email. Residents had given the town examples that included noisy parties, lack of upkeep, trash load



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and other issues.

Other towns are having the conversation toward the development of ordinances that would address their respective situations.

The issue has caught state legislators' attention in various ways, too. Late into this year's General Assembly session, in July, an effort materialized to preempt local authority over short-term rentals. The bill would have nullified existing local regulations as sponsors angled toward private property rights and said regulations had no uniformity from town to town. The bill, at the time of this writing, was withdrawn for lack of support, with opposing legislators pointing to its flaws with local context -- municipalities indeed are not uniform -- and preemption

of local decision-making. News coverage from WRAL quoted Rep. Stephen Ross, the former Burlington mayor, as saying the bill would frustrate the value of and purpose for zoning regulations, like with single-family neighborhoods and disharmonious property usage.

"Preempting local short-term rental regulations will ultimately mean fewer protections for existing residential homeowners," the League noted in an info-sheet prepared ahead of the legislative proposal. "Those homeowners typically bought their homes believing that their neighborhoods would be shielded from commercial growth."

It added: "Local regulation ensures that cities know the location of short-term rentals so that occupancy taxes are properly collected. Creating

gaps in those collections will mean decreased dollars for tourism promotion and other needs."

It's certainly not just a North Carolina issue, not even confined to the United States. In July, the publication CityLab published coverage of how it's playing out in Europe, with the story focused on 10 city governments, including Amsterdam, Barcelona and Paris, joining up on an open letter to the European Union asking for local regulatory authority with short-term rentals.

The short-term rentals story is part of the larger sharing economy, exemplified also by ridesharing services like Uber or Lyft, as ideas disruptive to our traditional models of services and accommodations get loaded into phone apps for simple, on-demand booking. There's been precedent for it for a long time.

"The sharing economy is really ... on a continuum," Rainwater said, "all the way from sharing library books -- I mean, the library is the perfect example of a precursor to something like the sharing economy -- to something like Uber and Lyft, where people are sharing their individually owned vehicle on a technological platform."

These modern sharing services, including short-term rentals, rose to popularity from the last economic downturn, with people seeking new sources of income and making use of what they already had at their disposal.

"A lot of people move into single-family neighborhoods thinking that they're going to be with other owners of those homes, or long-term renters," Rainwater continued. "All of a sudden, you're introducing a dynamic where people are coming in renting homes overnight or a week at

continued on page 43



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generation of folks? Yes, I'm young now, but we have to continue to build the bench. The unfortunate thing is that much of the political system is not built around making sure that young people have access and opportunity to run for elected office. If you're not independently wealthy or retired, it makes it extremely challenging for you to serve, and I think that impacts the policy that we get out of councils or legislatures.

So what do you think the strengths are of your age in your position?

I'm, the youngest Democrat here, in the General Assembly. That has not been something, at least verbally articulated, that is any issue from

any of the members I've talked to. Actually, it's been more encouraging in the sense that it's good to have some youthfulness here. But what also needs to be understood, from someone like myself being in this space, is understanding the dynamics of who's already here. It's kind of like, at least for me and my family, you have to respect your elders, even though I may have an idea. There are people who've been here before me and I can't show up and think that I know how to run the show. You have to have that dialogue, that conversation with folks. One, so they know you're interested, but also so you can build that relationship (and receive guidance) so that I don't run

into some of the same pitfalls. There are some lessons I don't want to learn by experience. There are some lessons I'd rather learn by someone telling me not to do that because this is what happened to me. That's one of the benefits of being young. Some of our senior members want to tell their story, if you're willing to listen....
SC

Here We Grow: Murphy

continued from page 5

"I think, if nothing else, the event last fall showed how tight our community is and what we can accomplish when we come together," said Mayor Ramsey. "We have so many positive things happening in our town right now, and a lot of people are behind that success. It's something we will continue to build on." **SC**

The Short-Term Rental Disruption

continued from page 36

a time, and it just creates a different level of challenges that people perhaps weren't expecting."

But, he said, it can be a positive thing for local governments to work with residents and stakeholders to find a safe balance everyone can appreciate.

"We're not trying to be heavy-handed about it," said Zehner of Nags Head. "We hope that it's seen as being very reasonable." **SC**

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REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 23, 2019

To: LDCAB Members
From: Becky Partin
Senior Planner


Action Requested:

The Planning Department received the attached request to consider an amendment to the Land Development Code to allow accessory structures in the front yard - specifically sheds. The property owner states that the front yard of lakefront lots is the lake side, making the the street side of the lot the rear yard - according to the property owner.

Manager's Recommendation:

Discuss and provide direction to staff.

ATTACHMENTS:

Name:	Description:	Type:
 Shed_placement.pdf	Shed Placement Request	Backup Material

April 18, 2019

To Whom It Concerns:

This letter is a request to consider an amendment to the Cornelius Town Land Development Code specifically with regard to Single Family Districts (5.5.2 page 5-13). The ordinance specifies the building "shall be constructed in the rear yard only."

While I understand the reasoning for such an ordinance I maintain that such a "one size fits all" ordinance does an injustice in certain situations. My little outbuilding was legally permitted in 2016 and is adjacent to an outbuilding in my front yard which has been there since around 1978 and is grandfathered in with regard to location in my front yard. Recently I was informed by the Town of Cornelius that the permit was improperly drawn by the firm that built the building. Since I live on the lake my "front yard" has always been referred to as the lake side and the "back yard" as the street side. I realize that front is legally designated by the street side. Several people from the planning office have been out to look at my situation, but have been unable to make any accommodation or exception to this ordinance.

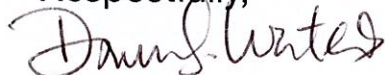
There are many outbuildings in this neighborhood that have been built without the permitting process that I did and are waived since they have been in front yards for a period of five years and are thus grandfathered in.

Even if I wished to build a detached garage the ordinance maintains that it would have to be built in my back yard (thus on the lake side).

I understand that technically I am in violation of the town ordinance, but through no overt action on my part to evade the legal permission to build the structure. Due to the "one size fits all" ordinance I am now in a position of incurring the expense and inconvenience of relocating a structure that is not even visible from the street. Those taxpayers who live on the lake pay some of the highest real estate taxes in the community. It would seem that the powers that be would at least consider a reassessment of the ordinance or a waiver for my building to stay where it is.

Thank you for your consideration of this issue. I would appreciate acknowledgement of action you take with regard to my request.

Respectfully,



Donna G. Waters
20536 Lagoon Drive
Cornelius, NC 28031

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 23, 2019

To: LDCAB Members

From: Becky Partin

Senior Planner

Action Requested:

Staff was asked to review Open Space requirements for potential changes that may result in higher quality and larger open spaces in new developments.

Manager's Recommendation:

Review findings and provide direction to staff.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		
