KANNAPOLIS

DEVELOPMENT ORDINANCE

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ARTICLE 1. GENERAL PROVISIONS

SECTION 1.1. TITLE

This Ordinance shall be officially known as the "Development Ordinance of the City of Kannapolis, North Carolina," and may be referred to as the "Kannapolis Development Ordinance," "KDO," or "this Ordinance."

SECTION 1.2. AUTHORITY

A. GENERAL AUTHORITY

This Ordinance consolidates the City's zoning, subdivision, and flood damage prevention regulatory authority as authorized by the North Carolina General Statutes and is adopted pursuant to:

(1) The authority granted to the City of Kannapolis by the General Assembly of the State of North Carolina;

(2) The North Carolina General Statutes Chapter 160D, Article 19;

(3) All other relevant laws of the State of North Carolina; and

(4) Any special legislation enacted for the City.

B. REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes (N.C.G.S.) and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

SECTION 1.3. GENERAL PURPOSE AND INTENT

The general purpose of this Ordinance is to promote the public health, safety, and general welfare, and to implement the goals and policies of the Comprehensive Plan. More specifically, the intent of this Ordinance is to:

A. Provide for the orderly growth and development of the City in a manner that accommodates reasonable overall community growth, including population and employment growth, provides opportunities for development of a variety of uses, and supports the efficient use of land, water, roads, and other resources;

B. Promote compact, vibrant, mixed-use, and walkable development in the downtown area and other activity centers, as appropriate;

C. Better manage or lessen congestion in the streets;

D. Ensure the provision of adequate open space between uses for light, air, and fire safety;

E. Prevent the overcrowding of land and avoid undue concentration of population;

F. Ensure development is compatible with the desired character of the zoning district where it is located and surrounding uses;

G. Support economic growth and development;

H. Provide for a diversity of housing opportunities;

I. Ensure that the form and design of new development is consistent with the City's desired character for the area where it is located;

J. Reuse, redevelop, or revitalize underutilized properties, particularly along corridors that better accommodate bicycles and pedestrians;

K. Protect the character of the City's established neighborhoods, as appropriate;

L. Facilitate the adequate provision of transportation, water, sewage, schools, parks, recreation, emergency services and other public facilities;

M. Support sustainable development through sustainable/green building practices and protection of the City's tree canopy, riparian areas, and other natural resources; and

N. Establish comprehensive, consistent, effective, efficient, and equitable standards and procedures for the review and approval of development that implement the adopted plans, respect the rights of landowners, and consider the interests of the City's citizens.

SECTION 1.4. APPLICABILITY

A. GENERAL APPLICABILITY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits and the Extra-Territorial Jurisdiction (ETJ) of the City of Kannapolis, unless the land or development is expressly exempted by a specific provision of this Ordinance.

B. APPLICATION TO GOVERNMENTAL UNITS

Except as stated herein, the provisions of this Ordinance shall apply to:

(1) Development of land owned by the City or its agencies or departments;

(2) Development by public colleges or universities;

(3) State and county buildings in accordance with the standards in North Carolina General Statutes Section 160D-913; and

(4) To the full extent permitted by law, development of land owned or held in tenancy by the government of the United States, its agencies, departments or corporate services.

C. COMPLIANCE REQUIRED

No structure or land shall be used, and no structure or part thereof shall be located, erected, moved, reconstructed, extended, converted, demolished, or structurally altered without full compliance with this Ordinance, including any applicable and valid development approvals and permits granted in accordance with this Ordinance, and all other applicable City, state, and federal regulations. Violations of this Ordinance are identified in Section 8.3, Violations.

D. PERMIT CHOICE

In cases where this Ordinance is amended (i) between the time a development permit application is submitted and a decision on the application is made, or (ii) after a development permit decision has been challenged and found to be wrongfully denied or illegal, the applicant may choose whether the review of and decision on the application will proceed under the requirements of this Ordinance as it was in effect at the time the application was submitted, or under the requirements of this Ordinance as amended, in accordance with N.C.G.S. §§ 160D-108 and 143-755.

E. BONA FIDE FARMS IN EXTRA-TERRITORIAL JURISDICTION

Property on which bona fide farms (as defined in N.C.G.S. § 160D-903) are currently operating within the City's extraterritorial jurisdiction are exempt from the requirements of this Ordinance to the minimum extent required by N.C.G.S. § 160D-903(c). Property that ceases to be used for bona fide farm purposes becomes subject to the requirements of this Ordinance.

SECTION 1.5. CONFORMANCE WITH ADOPTED PLANS

This Ordinance is intended to ensure that all development within the City's jurisdiction is consistent with the goals, objectives, policies, strategies, and actions of plans adopted by the City that address growth and development. The Comprehensive Plan for the City of Kannapolis shall serve as the principal policy guide for the administration of this Ordinance. To the extent this Ordinance is or becomes inconsistent with the Comprehensive Plan, this Ordinance or the Comprehensive Plan should be amended so the plan and this Ordinance remain generally consistent with each other. All amendments to this Ordinance's text or Zoning Map should maintain and enhance consistency between this Ordinance and the adopted plans.

SECTION 1.6. RELATIONSHIP WITH OTHER LAWS, COVENANTS, OR DEEDS

A. CONFLICTS WITH OTHER CITY CODES OR LAWS

If the provisions of this Ordinance are inconsistent with one another or if the provisions of this Ordinance conflict with provisions found in other adopted codes or ordinances of the City, the more restrictive provision shall govern unless the terms in the more restrictive provisions specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens or has more stringent controls.

B. CONFLICTS WITH PRIVATE AGREEMENTS

The City shall not be responsible for monitoring or enforcing private covenants and restrictions.

C. CONFLICTS WITH STATE OR FEDERAL LAW

If the provisions of this Ordinance are inconsistent with the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or burdens or has more stringent controls.

D. EXISTING AGREEMENTS OR VESTED RIGHTS

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or vested rights previously adopted or issued in accordance with all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

SECTION 1.7. ZONING MAP

A. GENERALLY

The Zoning Map designates the location and boundaries of the various base zoning districts and overlay zoning districts under this Ordinance.

B. INCORPORATED BY REFERENCE

The Zoning Map, including all its notations, is incorporated into this Ordinance by reference and is on file in the Planning Department for public inspection during normal business hours. The City may maintain the Zoning Map as an electronic map layer in the City's Geographic Information System (GIS) database. The official copy of the electronic version of a Zoning Map shall be recorded onto permanent media to ensure all the electronic information is protected.

C. INTERPRETATION OF ZONING MAP BOUNDARIES

The Planning Director shall be responsible for interpretation of the Zoning Map in accordance with Section 2.5.E(1), Interpretation, and the following standards:

(1) When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream or watercourse, the boundary shall be deemed to be the center line of such feature.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.

(4) Boundaries indicated as separated from but approximately parallel to any of the features indicated in subsection (1) through (3) above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.

(5) Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

(6) Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Zoning Map, the physical monument or marker located on the ground shall control.

(7) Where physical features, such as flood plains, vary from those shown on the Zoning Map, or in other circumstances not covered by subsections 1.7.C(1) through 1.7.C(6) above, the Planning Director shall determine the district boundaries. Any aggrieved person may appeal such determination to the Board of Adjustment, pursuant to Section 2.5.D(4), Appeal of Administrative Decision.

D. ZONING CLASSIFICATION OF NEWLY ANNEXED LANDS

Lands added to the City's jurisdiction shall be classified to one or more of the base zoning districts set forth in this Ordinance in accordance with state law.

SECTION 1.8. TRANSITIONAL PROVISIONS

A. VIOLATIONS

Any violation of the previous Unified Development Ordinance and other regulations replaced by this Ordinance shall continue to be a violation under this Ordinance, and subject to the penalties set forth in Article 8, Enforcement, unless the development complies with the express terms of this Ordinance.

B. NONCONFORMITIES

If any use, structure, lot of record, or site feature that was legally established on the date of its development, but does not fully comply with the standards of this Ordinance, it shall be considered nonconforming and subject to the provisions of Article 7, Nonconformities. If a use, structure, lot of record, or site feature that was legally nonconforming under the previous Unified Development Ordinance becomes conforming under

this Ordinance, it shall no longer be deemed nonconforming nor subject to the provisions of Article 7, Nonconformities.

C. COMPLETE APPLICATIONS

Applications submitted and accepted by the City prior to the adoption of this Ordinance, but upon which a final decision has not yet been made, shall be processed and reviewed either (1) under the standards and time frames for review, approval, and completion established in the Ordinance in place at the time of application acceptance, or (2) under the standards and time frames for review, approval, and completion established in this Ordinance, whichever the applicant chooses. Such standards and time frames shall be applied in whole, and the application of specific standards and procedures from both this Ordinance and the Ordinance in place at the time of application acceptance, if different, is prohibited.

D. APPROVED APPLICATIONS

Any development approvals granted prior to the adoption of this Ordinance shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided the permit or approval is valid and has not lapsed. Any re-application for an expired approval shall meet the standards of this Ordinance.

E. APPROVED SPECIAL USE PERMITS

Lands subject to a special use permit approved prior to the effective date of this Ordinance (whether associated with a conditional zoning classification or otherwise) shall continue to be subject to the special use permit even if the conditional zoning district classification is amended to a new general use base zoning district or conditional zoning district as part of the adoption of this Ordinance.

F. TRANSITIONS TO NEW ZONING DISTRICTS

Table 1.8.A: Transition to New Zoning Districts, shows the zoning districts established in Article 3: Zoning Districts, of this Ordinance next to comparable zoning districts established in the prior zoning ordinance. If there is no comparable zoning district, either in Article 3 or in the prior zoning ordinance, that is indicated in Table 1.8.A in parentheses. If the zoning district established in the prior zoning ordinance is deleted, that is indicated.

TABLE 1.8.A: Transition to New Zoning Districts

Former District	New District
Base Districts	
Agricultural	
AG Agricultural District	AG Agricultural District
Residential	
RE Rural Estate District	R1 Rural Residential Transition District
RL Residential Low-Density District	R2 Residential Single-Family 2 District
RM-1 Residential Medium Density District	R4 Residential Single-Family 4 District
RM-2 Residential Medium Density District	
	R6 Residential Single-Family 6 District (NEW)
	R7 Residential Single-Family 7 District (NEW)
RV Residential Village District	R8 Residential Mixed 8 District
RC Residential Compact District	R18 Residential Mixed 18 District

TABLE 1.8.A: Transition to New Zoning Districts

Former District	New District
TND Traditional Neighborhood Development District	DELETED
Mixed-Use	
B-1 Neighborhood Commercial/Office District	MU-N Mixed-Use Neighborhood District
	MU-SC Mixed-Use Suburban Corridor District (NEW)
	MU-UC Mixed-Use Urban Corridor District (NEW)
	MU-AC Mixed-Use Activity Center District (NEW)
TOD Transit Oriented Development District	TOD Transit Oriented Development District
CC Center City District	CC Center City District
Nonresidential	
O-I Office-Institutional District	O-I Office-Institutional District
C-2 General Commercial District	GC General Commercial District
I-1 Light Industrial District	LI Light Industrial District
I-2 Heavy Industrial District	HI Heavy Industrial District
PID Public Interest Development District	DELETED
Legacy	
CD Campus Development District	CD Campus Development District
CD-R Campus Development - Residential District	CD-R Campus Development – Residential District
C-1 Light Commercial and Office District	C-1 Light Commercial and Office District
Planned Development Districts	
PUD Planned Unit Development District	PD Planned Development District
	PD-TND Planned Development - Traditional Neighborhood Development District
	PD-C Planned Development - Campus District
Overlay Districts	
AOD Airport Overlay District	AO Airport Overlay District
FPOD Flood Plain Overlay District	FPO Flood Plain Overlay District
MHOD Manufactured Home Overlay District	MHO Manufactured Home Overlay District
CCTPOD Coddle Creek Thoroughfare Protection Overlay District	TPO Thoroughfare Protection Overlay District
DEBTPOD Dale Earnhardt Boulevard Thoroughfare Protection Overlay District	
	NPO Neighborhood Protection Overlay District (NEW)
RSOD River/Stream Overlay District	RSO River/Stream Overlay District
WPOD Watershed Protection Overlay District	WPO Watershed Protection Overlay District

SECTION 1.9. VESTED RIGHTS

A. Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any vested rights under applicable laws, so long as the vested rights remain in effect.

B. In accordance with N.C.G.S. Section 160D-108.1, a landowner may establish a vested right that shall entitle the landowner to develop land in accordance with an approved site-specific vesting plan. The following plans and plats are site-specific vesting plans under this Ordinance:

(1) A conditional zoning conceptual development plan;

(2) A PD master plan;

(3) A special use permit development plan;

(4) A site plan; or

(5) A major subdivision preliminary plat.

C. If development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months and the exceptions of NCGS § 160D-108(d) do not apply, any period of statutory vesting shall expire.

D. In accordance with N.C.G.S. § 160A-31(h) and 160A-58.1(d), petitioners filing for voluntary annexation shall also submit a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under N.C.G.S. § 160A-385.1 or N.C.G.S. § 153A-344.1. If the statement declares that such rights have been established, the petitioners shall provide proof of such rights. A statement which declares that no vested rights have been established under N.C.G.S. § 160A-385.1 or N.C.G.S. § 153A-344.1 shall be binding on the landowner and any such vested right shall be terminated.

E. Whenever the City acquires jurisdiction over lands previously subject to the jurisdiction of another local government, any person who has acquired vested rights under a permit, certificate, or other evidence of compliance issued by the local government surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The City may take any action regarding the permit, certificate, or other evidence of compliance that the local government surrendering jurisdiction could have taken under that local government's ordinances and regulations.

SECTION 1.10. SEVERABILITY

It is the legislative intent of the City Council in adopting this Ordinance that all provisions shall be liberally construed to 1) guide development in accordance with the existing and future needs of the City as established in the Comprehensive Plan and this Ordinance, and 2) promote the public health, safety, and welfare of landowners and residents of the City. The City Council's intent in adopting this Ordinance is that each section, subsection, paragraph, sentence, clause, and phrase of this Ordinance shall be effective, regardless of whether any other section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, and that such holding shall not affect the validity and continued enforcement of any other section, subsection, paragraph, sentence, clause, or phrase of this Ordinance.

A. If a court of competent jurisdiction holds any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance to be invalid for any reason, such judgment shall not affect the validity of the remaining portions of this Ordinance.

B. If a court of competent jurisdiction holds any condition attached to a development approval or permit granted in accordance with this Ordinance to be invalid for any reason, such judgment shall not affect the validity of any other conditions of the approval or permit not specifically included in the judgment.

C. If a court of competent jurisdiction invalidates the application of any provision of this Ordinance to a development, such judgment shall not affect the application of that provision to any other development not specifically included in the judgment.

SECTION 1.11. EFFECTIVE DATE

This Ordinance shall become effective on July 1, 2022, and shall repeal and replace the City of Kannapolis Unified Development Ordinance, as originally adopted on November 27, 2000.

2. ADMINISTRATION

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ARTICLE 2. ADMINISTRATION

SECTION 2.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE

This Article sets forth the review and approval procedures for development applications.

A. Section 2.2, Summary Table of Development Review Responsibilities, summarizes the development review responsibilities of each review body and official for each type of application;

B. Section 2.3, Advisory and Decision-Making Bodies and Persons, identifies the powers and duties of each review body and official and official under this Ordinance;

C. Section 2.4, Standard Application Requirements and Procedures, establishes a standard set of review procedures for the review of development applications.

D. Section 2.5, Application-Specific Review Procedures and Standards, includes the specific review standards and any unique procedural review requirements for each type of application.

SECTION 2.2. SUMMARY TABLE OF DEVELOPMENT REVIEW RESPONSIBILITIES

Table 2.2: Summary Table of Development Review Responsibilities, identifies the types of applications authorized by this Ordinance. For each type of application, Table 2.2 identifies the action required by the various advising or decision-making bodies or persons.

Table 2.2 Summary Table of Development Review Responsibilities

D: Decision R: Recommendation S: Staff Review A: Appeal <_>: Public Hearing

Type of Application	City Council	Planning and Zoning Commission	Board of Adjustment	Planning Director	Director of Engineering
Discretionary Review					
Text Amendment	<D>	<R>		S	
Zoning Map Amendment	<A>, <D> [1]	<D> [1]		S	
Conditional Zoning	<A>, <D> [1]	<D> [1]		S	
Planned Development	<A>, <D> [1]	<D> [1]		S	
Special Use Permit			<D>	S	
Site Plan and Subdivision					
Site Plan			<A>	D	
Minor Subdivision					
Preliminary Plat			<A>	D	S
Final Plat			<A>	D	S [3]
Major Subdivision					

Table 2.2 Summary Table of Development Review Responsibilities
D: Decision R: Recommendation S: Staff Review A: Appeal <_>: Public Hearing

Type of Application	City Council	Planning and Zoning Commission	Board of Adjustment	Planning Director	Director of Engineering
Preliminary Plat				D [2]	
Construction Plans					D
Final Plat			<A>	D	
Exempt Subdivision Determination				D	
Permits					
Zoning Clearance Permit			<A>	D	
Certificate of Compliance			<A>	D	
Tree Removal Permit			<A>	D	
Temporary Use Permit			<A>	D	
Home Occupation Permit			<A>	D	
Sign Permit			<A>	D	
Grading Permit			<A>		D
Erosion Control Permit					D [4]
Floodplain Development Permit			<A>	D	
Stormwater Management Permit			<A>		D
Relief					
Variance – Zoning			<D>		
Variance – Watershed Protection		<D> [5]			
Administrative Adjustment			<A>	D	
Appeal of Administrative Decision			<D>		
Other Procedures					
Interpretation			<A>	D [6]	D [6]
Density Averaging Certificate		D		S	
Special Intensity Allocation		D		S	
Certificate of Nonconformity Adjustment			<D>	S	

Table Notes:

[1] Final decision is by the Planning and Zoning Commission by three-quarters majority of voting members. If approved by a smaller majority, if denied, or if the Planning and Zoning Commission's decision is appealed, City Council makes the final decision.

[2] The Technical Review Committee (TRC) shall review the application and provide comments on the application to the Planning Director.

[3] Required if the subdivision includes water or sewer utility extensions.

[4] Erosion and sedimentation controls for land disturbing activities of one acre or more are administered by the state, and state standards, requirements, and procedures apply.

[5] For applications for a major variance from the WPO District requirements, the North Carolina Environmental Management Commission (the "EMC") reviews the record of the public hearing and prepares a decision that authorizes the Planning and Zoning

Table 2.2 Summary Table of Development Review Responsibilities
D: DECISION R: RECOMMENDATION S: STAFF REVIEW A: APPEAL <_>: PUBLIC HEARING

TYPE OF APPLICATION	CITY COUNCIL	PLANNING AND ZONING COMMISSION	BOARD OF ADJUSTMENT	PLANNING DIRECTOR	DIRECTOR OF ENGINEERING

Commission to issue a final decision either approving or denying the application. The Planning and Zoning Commission then issues a final decision on the application in accordance with the EMC's decision.

[6] The Director of Engineering renders interpretations of the provisions in Section 5.10, Stormwater Management Standards; the Planning Director renders all other interpretations.

[7] Abbreviations in table for actions required: D = Decision; R = Recommendation; S=Staff Review; A=Appeal; <_>=Public Hearing

SECTION 2.3. ADVISORY AND DECISION-MAKING BODIES AND PERSONS

A. CITY COUNCIL

(1) POWERS AND DUTIES

To exercise the authority granted to the City Council by state law, the City Council shall have the following powers and duties under this Ordinance:

a. To review and make a decision on the following:

1. Zoning text amendments (Section 2.5.A(1)).

b. If approved by less than three-quarters majority of voting members of the Planning and Zoning Commission, if denied by the Planning and Zoning Commission, or if the Planning and Zoning Commission's decision is appealed, to review and make a decision on the following:

1. Zoning map amendments (Section 2.5.A(2));

2. Conditional zonings (Section 2.5.A(3)); and

3. Planned developments (Section 2.5.A(4)).

c. To adopt a schedule of fees for applications for development approvals and permits reviewed under this Ordinance in accordance with state law, and to adopt a schedule of civil penalties for violations of this Ordinance;

d. To adopt a Comprehensive Plan and amendments to the Comprehensive Plan, and to adopt small area plans, other long-range plans, and special studies;

e. To extend the City's corporate limits in accordance with N.C.G.S. Chapter 160A; and

f. To take any other action authorized by state law and not delegated to the Planning and Zoning Commission, the Board of Adjustment, the Planning Director, the Director of Engineering, or another other body or official, as the City Council deems desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

(2) CONFLICT OF INTEREST

A member of the City Council shall not vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member of the City Council shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

B. PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission of the City of Kannapolis is hereby established in accordance with state law.

(1) POWERS AND DUTIES

The Planning and Zoning Commission shall have the following powers and duties under this Ordinance:

a. To review and make decisions on applications for the following, provided, if the application is approved by less than a three-quarters majority of voting members or denied, or if the Planning and Zoning Commission's decision is appealed, the City Council shall make the final decision on the application:

1. Zoning Map amendments (Section 2.5.A(2));

2. Conditional zonings (Section 2.5.A(3));

3. Planned developments (Section 2.5.A(4));

4. Watershed protection variances (Section 2.5.D(2));

5. Density Averaging Certificates (Section 2.5.E(2)); and

6. Special Intensity Allocations (Section 2.5.E(3));

b. To review and make recommendations to the City Council on zoning text amendments (Section 2.5.A(1));

c. To serve as the Watershed Review Board;

d. To advise and provide recommendations to the City Council on amendments to the Comprehensive Plan, including preparing amendments to the plan and its elements and submitting those amendments to the City Council;

e. To oversee, review, and recommend to City Council the adoption of small area plans, other long-range plans, and special studies; and

f. Any other powers and duties delegated to it by the City Council in accordance with state law.

(2) MEMBERSHIP, APPOINTMENT, AND TERMS OF OFFICE

a. The Planning and Zoning Commission shall consist of nine members appointed by the City Council. The membership of the Commission shall include proportional representation for extraterritorial areas, in accordance with N.C.G.S. § 160D-307.

b. Before serving on the Planning and Zoning Commission, each member shall take the oath of office in accordance with NCGS § 160A-61.

c. All members of the Commission shall serve a term of three years, except the City Council shall appoint members to the Commission to fill vacancies occuring for reasons other than expiration of

terms for the period of the the unexpired term only. The City Council may reappoint members to successive terms, in accordance with City Council policies for Board and Commission appointments.

d. Members of the Commission shall be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the City Council.

e. The City Council may remove any member of the Commission for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing if requested.

(3) OFFICERS, SECRETARY, AND STAFF

a. At an annual organizational meeting, the Planning and Zoning Commission shall elect one of its members as chair and one as vice-chair.

b. The Planning Director shall appoint a recording secretary to serve the Commission. The secretary shall serve as clerk to the Commission and shall keep minutes to summarize all proceedings, attested to by a majority of the members of the commission voting. In addition, the secretary shall maintain all records of Commission meetings, hearings, and proceedings, as well as the correspondence of the Commission, and is authorized to administer oaths at quasi-judicial hearings before the Commission.

c. The Planning Director shall serve as professional staff for the Commission.

(4) RULES OF PROCEDURE

The Commission shall adopt rules of procedure governing its procedures and operations. The rules shall be maintained by the Planning Director and shall be made available on the City's web site. Copies of the rules shall also be made available for public inspection in the Planning Department.

(5) MEETINGS

a. The Commission shall establish a regular meeting schedule by rule. Special meetings may be requested by the City Council, the chair of the Commission, a majority of the members of the Commission, or the Planning Director.

b. All regular meetings of the Commission shall be open to the public in accordance with state law.

c. The chair of the Commision shall conduct all meetings in accordance with the Commission's rules of procedure. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting. The chair shall be in charge of all proceedings before the commission and take such action necessary to preserve the order and integrity of all proceedings before the Commission. The chair or the recording secretary shall administer oaths.

d. No business may be transacted by the Commission without a quorum consisting of a majority of the appointed membership of the Commission. The chair of the Commission shall be counted for purposes of establishing a quorum and shall act as a voting member. All actions of the Commission shall require the concurring vote of a majority of the members of the Commission unless a more stringent voting standard is prescribed in this Ordinance.

e. If a matter is postponed due to lack of a quorum, the chair of the Commission shall continue the matter to the next Commission meeting. The recording secretary shall notify all members and all appropriate parties of the date of the meeting to which the matter was continued.

(6) CONFLICT OF INTEREST

a. A member of the Planning and Zoning Commission shall not vote on any advisory or legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

b. In quasi-judicial matters, no member of the Planning and Zoning Commission may participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conduct includes, but is not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. Upon objection raised to a member's participation, the remaining members of the Planning and Zoning Commission shall rule on the objection by majority vote.

C. BOARD OF ADJUSTMENT

The Board of Adjustment of the City of Kannapolis is hereby established in accordance with state law.

(1) POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties:

a. To review and make decisions on the following:

1. Special use permits (Section 2.5.A(5));

2. Zoning variances (Section 2.5.D(1));

3. Certificates of nonconformity adjustment (Section 2.5.E(4)).

b. To hear and decide appeals of decisions on the following:

1. Site plans (Section 2.5.B(1));

2. Minor subdivision preliminary plats (Section 2.5.B(2)c);

3. Minor subdivision final plats (Section 2.5.B(2)d);

4. Major subdivision final plats (Section 2.5.B(3)e);

5. Zoning clearance permits (Section 2.5.C(1));

6. Certificates of compliance (Section 2.5.C(2));

7. Grading permits (Section 2.5.C(7));

8. Stormwater management permits ();

9. Tree removal permits (Section 2.5.C(3));

10. Temporary use permits (Section 2.5.C(4));

11. Home occupation permits (Section 2.5.C(5));

12. Sign permits (Section 2.5.C(6));

13. Floodplain development permits (Section 2.5.C(7));

14. Administrative adjustments (Section 2.5.D(3)); and

15. Interpretations (Section 2.5.E(1)).

(2) MEMBERSHIP, APPOINTMENT, AND TERMS

a. The Board of Adjustment shall consist of seven regular members and two alternate members appointed by the City Council. The membership of the Board shall include proportional representation for extraterritorial areas, as provided in N.C.G.S. Section 160D-307. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

b. All members of the Board shall serve a term of three years, except the City Council shall appoint members to the Board to fill vacancies occuring for reasons other than expiration of terms for the period of the the unexpired term only. The City Council may reappoint members to successive terms without limitation.

c. Before serving on the Board of Adjustment, each member shall take the oath of office in accordance with NCGS § 160A-61.

d. Members may be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the appointing Council or by intergovernmental agreement.

e. The City Council may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.

(3) OFFICERS, SECRETARY, AND STAFF

a. At an annual organizational meeting, the Board of Adjustment shall elect one of its members as chair and one as vice-chair.

b. The Planning Director shall appoint a recording secretary to serve the Board of Adjustment. The secretary shall serve as clerk to the Board and shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Board voting. The secreatary shall also maintain all records of Board meetings, hearings, and proceedings, as well as the correspondence of the Board of Adjustment, and is authorized to administer oaths at quasi-judicial proceedings before the Board.

c. The Planning Director shall serve as professional staff for the Board of Adjustment.

(4) RULES OF PROCEDURE

The Board of Adjustment shall adopt all rules and procedures for the conduct of its business, consistent with state law. The rules shall be maintained by the Planning Director and shall be made available on the City's website.

(5) MEETINGS

a. The chair of the Board shall conduct all meetings in accordance with the Boards's rules and procedures. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Board shall elect a temporary chair to conduct the meeting. The chair shall be in charge of all proceedings before the Board and take such action necessary to preserve the order and integrity of all proceedings before the Board. The chair or the recording secretary shall administer oaths.

b. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals or applications for zoning variances or special use permits.

c. No member may participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conduct includes, but is not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. Upon objection raised to a member's participation, the remaining members of the Board of Adjustment shall rule on the objection by majority vote.

d. Minutes of the proceedings of the Board of Adjustment showing the vote of each member and records of its examinations and other official actions shall be filed in the Planning Department for public record.

D. PLANNING DIRECTOR

(1) GENERAL

a. The Planning Director is authorized to perform the planning functions for the City and provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval. The Planning Director is authorized to perform other functions as may be requested by the City Council or authorized by this Ordinance.

b. The Planning Director may delegate any decision or review authority to any professional level staff in the Planning Department and may delegate clerical authority to any staff in the Planning Department.

(2) POWERS AND DUTIES

The Planning Director shall have the following powers and duties under this Ordinance:

a. To review and make decisions on the following:

1. Site plans (Section 2.5.B(1));

2. Minor subdivision preliminary plats (Section 2.5.B(2)c);

3. Minor subdivision final plats (Section 2.5.B(2)d);

4. Major subdivision preliminary plats (Section 2.5.B(3)c);

5. Major subdivision final plats (Section 2.5.B(3)e);

6. Exempt subdivision determinations (Section 2.5.B(4));

7. Zoning clearance permits (Section 2.5.C(1));

8. Certificates of compliance (Section 2.5.C(2));

9. Grading permits (Section 2.5.C(7));

10. Tree removal permits (Section 2.5.C(3));

11. Temporary use permits (Section 2.5.C(4));

12. Home occupation permits (Section 2.5.C(5));

13. Sign permits (Section 2.5.C(6));

14. Floodplain development permits (Section 2.5.C(7));

15. Administrative Adjustments (Section 2.5.D(3)); and

16. Interpretations Section 2.5.E(1)) of the provisions of this Ordinance, except the provisions in Section 5.10, Stormwater Management Standards;

b. To review and prepare a staff report on the the following:

1. Zoning text amendments (Section 2.5.A(1));

2. Zoning map amendments (Section 2.5.A(2));

3. Conditional zonings (Section 2.5.A(3));

4. Planned developments (Section 2.5.A(4));

5. Special use permits (Section 2.5.A(5));

6. Major subdivision preliminary plats (Section 2.5.B(3)c);

7. Density Averaging Certificates (Section 2.5.E(2));

8. Special Intensity Allocations (Section 2.5.E(3)); and

9. Certificates of nonconformity adjustment (Section 2.5.E(4));

c. To perform all duties assigned to the Planning Director in Section 3.8.D, Floodplain Protection Overlay (FPO) District;

d. To establish application content requirements and a submission schedule for review of applications and appeals;

e. To maintain the Zoning Map and related materials;

f. To serve as professional staff to the Planning and Zoning Commission and the Board of Adjustment;

g. To provide expertise and technical assistance to the City's review and decision-making bodies, upon request;

h. To enforce this Ordinance in accordance with Article 8. Enforcement; and

i. To carry out any other activities necessary for the administration of this Ordinance that are not within the powers and duties of other bodies or officials.

(3) CONFLICT OF INTEREST

a. No staff member shall make a final decision in the implementation, administration, or enforcement of this Ordinance that involves the determination of facts and the application of objective standards if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member, or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member is prohibited from making a final decision by this section, the staff member's direct supervisor or other City employee designated by the City Manager shall make the final decision.

b. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the City.

E. DIRECTOR OF ENGINEERING

(1) GENERAL

The Director of Engineering may designate any decision or review authority under this Ordinance to any professional level staff in the Engineering Department.

(2) POWERS AND DUTIES

The Director of Engineering shall have the following powers and duties under this Ordinance:

a. To provide staff review on the following:

1. Minor subdivision preliminary plats (Section 2.5.B(2)c); and

2. Minor subdivision final plats (Section 2.5.B(2)d);

b. To review and make a decision on the following:

1. Major subdivision construction plans (Section 2.5.B(3)d);

2. Erosion control permits (Section 2.5.C(8));

3. Stormwater management permits (Section 2.5.C(10));

4. Interpretations (Section 2.5.E(1)) of provisions in Section 5.10, Stormwater Management Standards; and

5. Driveway permit applications; and

c. To compile and maintain a Land Development Standards Manual.

(3) CONFLICT OF INTEREST

See subsection D(3) above.

F. TECHNICAL REVIEW COMMITTEE (TRC)

The Technical Review Committee (TRC) is hereby established in accordance with state law.

(1) POWERS AND DUTIES

The TRC shall review all major preliminary subdivision plat applications (Section 2.5.B(3)c) and development applications as the Planning Director determines necessary and provide comments to the Planning Director on each such application.

(2) MEMBERSHIP

The TRC shall consist of representatives from City departments and other agencies involved in subdivision review.

(3) CHAIR

The Planning Director shall serve as chair of the TRC and shall schedule and conduct TRC meetings, coordinate TRC activities, prepare TRC reports, and serve as the liaison to the departments and agencies involved in TRC review.

SECTION 2.4. STANDARD APPLICATION REQUIREMENTS AND PROCEDURES

A. GENERAL

This section sets forth the standard procedures that are generally required for development applications reviewed under this Ordinance. Not all procedures in this section are required for every type of development application. Section 2.5, Application-Specific Review Procedures and Standards, identifies, for each specific type of development application, which standard procedures are required and any additions or modifications to the required standard procedures that apply. Table 2.4.A: Summary Table of Standard Procedures, summarizes which standard procedures apply to each type of development application, and which are modified in application-specific review procedures.

Table 2.4.A: Summary Table of Standard Procedures

✓ = Required; * = Application-Specific Review Procedures Modify Standard Procedures

	1	2	3	4	5	6	7	8
	Neighborhood Meeting	Pre-Application Conference	Application Submission	Staff Review and Action	Public Hearing Scheduling and Notification	Advisory Body Action	Decision-Making Body Action	Post-Decision Limitations and Actions
Discretionary Review								
Text Amendment		✓*	✓*	✓	✓	✓*	✓*	✓
Zoning Map Amendment	✓*	✓*	✓*	✓	✓		✓*	✓*
Conditional Zoning	✓	✓	✓*	✓	✓		✓*	✓*
Planned Development	✓	✓	✓*	✓	✓	✓	✓*	✓*
Special Use Permit		✓	✓*	✓	✓		✓	✓*
Site Plan and Subdivision								
Site Plan		✓	✓	✓				✓
Minor Subdivision								
Preliminary Plat			✓	✓				✓*
Final Plat			✓	✓				✓*
Major Subdivision								
Preliminary Plat			✓	✓				✓*
Construction Plans			✓*	✓				✓*
Final Plat			✓	✓				✓*
Exempt Subdivision Determination			✓	✓				
Permits								
Zoning Clearance Permit			✓*	✓				✓
Certificate of Compliance			✓*	✓				✓*

Table 2.4.A: Summary Table of Standard Procedures

✓ = Required; * = Application-Specific Review Procedures Modify Standard Procedures

	1 Neighborhood Meeting	2 Pre-Application Conference	3 Application Submission	4 Staff Review and Action	5 Public Hearing Scheduling and Notification	6 Advisory Body Action	7 Decision-Making Body Action	8 Post-Decision Limitations and Actions
Tree Removal Permit			✓	✓				✓
Temporary Use Permit			✓	✓*				✓*
Home Occupation Permit			✓	✓				✓*
Sign Permit			✓*	✓				✓
Grading Permit			✓*	✓				✓
Erosion Control Permit			✓	✓				✓
Floodplain Development Permit			✓*	✓*				✓*
Stormwater Management Permit			✓*	✓				✓*
Relief								
Variance – Zoning			✓		✓		✓*	✓
Variance – Watershed Protection			✓		✓*		✓*	✓
Administrative Adjustment			✓	✓				✓
Appeal of Administrative Decision					✓		✓*	✓*
Other Procedures								
Interpretation			✓*	✓*				✓*
Density Averaging Certificate			✓	✓			✓	✓*
Special Intensity Allocation			✓	✓			✓	✓*
Certificate of Nonconformity Adjustment			✓	✓	✓		✓	✓

B. NEIGHBORHOOD MEETING

(1) PURPOSE

The purpose of the neighborhood meeting is to educate owners and residents of nearby lands about a proposed application that is reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the proposal and resolve conflicts and outstanding issues where possible, before formally submitting an application. A neighborhood meeting serves as an opportunity for informal communication between the applicant and owners and residents of nearby land, and other residents affected by a development proposal.

(2) APPLICABILITY

a. NEIGHBORHOOD MEETING REQUIRED

A neighborhood meeting is required before submission of applications for the following:

1. Zoning map amendments (Section 2.5.A(2)), if lands are proposed to be zoned to a district that allows greater intensity or density of development;

2. Conditional zonings (Section 2.5.A(3)); and

3. Planned developments (Section 2.5.A(4)).

b. NEIGHBORHOOD MEETING OPTIONAL

A neighborhood meeting may also be held at the applicant's option before the submission of any development application not identified in subsection a above.

(3) NEIGHBORHOOD MEETING PROCEDURE

If a neighborhood meeting is conducted, it shall comply with the following requirements.

a. MEETING AND TIME LOCATION

The meeting shall be held at a place that is convenient and accessible to neighbors residing in close proximity to the land subject to the application. It shall be scheduled after 6:00 P.M on a weekday. It shall be completed before the application is submitted.

b. NOTIFICATION

1. Mailed Notice

The applicant shall mail notice of the meeting a minimum of seven days in advance of the meeting, in a form and manner established by the LDSM, to:

(a) The Planning Director;

(b) The owner of land subject to the application (if different from the applicant); and

(c) Any persons to whom mailed notice of a public hearing on the application is required by Section 2.4.B(3)b.1, Mailed Notice.

2. Notice Content

The mailed and posted notices shall state the time and place of the meeting, the purpose of the meeting, include a basic map identifying the land associated with the development, summarize the general nature of the development proposal, and the type of development approval or permit sought.

3. Social Media Optional

The applicant may post notice of the pre-application neighborhood meeting on appropriate and relevant social media pages, such as Facebook, Twitter, and Instagram.

4. City Website Optional

The City may post notice of the pre-application neighborhood meeting on the City's website.

c. CONDUCT OF MEETING

The meeting shall be open to the public. At the meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, respond to questions and concerns attendees raise about the proposed application, and discuss ways to resolve conflicts or concerns.

d. WRITTEN SUMMARY OF MEETING

After conclusion of the neighborhood meeting, the applicant shall prepare a written summary of the meeting that includes a list of meeting attendees, a summary of attendee comments and issues discussed related to the development proposal, and any other information the applicant deems appropriate. The meeting summary shall be included with the application materials and be made available to the public for inspection in accordance with Section 2.4.D(6), Examination and Copying of Application/Other Documents.

e. RESPONSE TO SUMMARY

Any person attending the neighborhood meeting may submit a written response to the applicant's meeting summary to the Planning Director after the application is submitted. The response may state that person's understanding of attendee comments, discuss issues related to the development proposal, and include any other information deemed appropriate. All written responses to the applicant's summary of the neighborhood meeting shall be included with the application materials, and made available for public inspection in accordance with Section 2.4.D(6), Examination and Copying of Application/Other Documents.

C. PRE-APPLICATION CONFERENCE

(1) PURPOSE

The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submission requirements and the procedures and standards applicable to an anticipated application. A pre-application conference is also intended to provide an opportunity for Planning Department staff to become familiar with, and offer the applicant preliminary comments about the scope, features, and impacts of the proposed development as it relates to the standards and procedural requirements in this Ordinance.

(2) APPLICABILITY

a. A pre-application conference is required before the submission of an application for any of the following:

1. Zoning text amendments (Section 2.5.A(1));

2. Zoning map amendments (Section 2.5.A(2));

3. Conditional zonings (Section 2.5.A(3));

4. Planned developments (Section 2.5.A(4));

5. Special use permits (Section 2.5.A(5)); and

6. Site plans (Section 2.5.B(1)) for development involving Commercial uses having a gross floor area of 50,000 or more square feet.

b. A pre-application conference may be held at the option of the applicant before the submission of any other application.

(3) PROCEDURE

a. SUBMISSION OF MATERIALS PRIOR TO CONFERENCE

Before a pre-application conference is held, the applicant shall submit to the Planning Director a narrative describing the scope of the proposed development, a conceptual plan, and any other information the Planning Director determines is appropriate.

b. SCHEDULING

Upon receipt of the request for a pre-application conference, the Planning Director shall schedule the pre-application conference and notify the applicant of the conference time and location.

c. CONFERENCE PROCEDINGS

The Planning Director and any other appropriate City staff shall review the materials submitted by the applicant prior to the conference. At the conference, the Planning Director and any other appropriate City staff shall seek any needed clarification from the applicant regarding the proposed application, respond to any applicant questions, and identify for the applicant any concerns, problems, or other factors the applicant should consider regarding the proposed application.

(4) EFFECT OF CONFERENCE

The pre-application conference is intended as a means of facilitating the application review process. Discussions held in accordance with this section are not binding on the City. Processing times for review of development applications do not begin until an application is submitted and determined to be complete in accordance with Section 2.4.D(3), Determination of Application Completeness.

D. APPLICATION SUBMISSION

Applications shall be submitted, and may be amended or withdrawn, in accordance with the requirements of this section.

(1) AUTHORITY TO FILE APPLICATIONS

a. GENERAL

Applications submitted under this Ordinance in accordance with this section shall be submitted by the landowner, a lessee, a person holding an option or contract to purchase or lease land, the landowner's authorized agent, or an easement holder if the requested development is authorized by the easement.

b. APPLICANT NOT THE OWNER

If the applicant is not the owner of the land or if the applicant is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted with the application.

c. APPLICANT NOT THE SOLE OWNER

If the applicant is not the sole owner of the land, a letter signed by the other owners, or an entity representing the owners, consenting to or joining in the application shall be submitted with the application.

(2) APPLICATION REQUIREMENTS

a. All applications shall be submitted to the Planning Department.

b. The application contents and forms shall be in accordance with requirements established in the LDSM.

c. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

d. Required fees shall be those established for the specific application by the City Council, which shall be identified in the Fee Schedule.

e. The schedule for application submission and review, including time frames for review, shall be established for each specific application type by the Planning Director, in accordance with state law, and shall be included in the LDSM.

(3) DETERMINATION OF APPLICATION COMPLETENESS

a. APPLICATION COMPLETENESS

Within ten business days of receipt of the application, the Planning Director shall determine whether the application is complete. A complete application is one that:

1. Contains all contents and is in the form required for the particular type of application in accordance with Section 2.4.D(2), Application Requirements.

2. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Ordinance.

3. Is accompanied by the fee established for the particular type of application in accordance with Section 2.4.D(2), Application Requirements.

b. APPLICATION INCOMPLETE

1. If it is determined the application is incomplete, the Planning Director shall send notice by mail or electronically to the applicant of the deficiencies, and review of the application shall not proceed. The applicant may correct the deficiencies and resubmit the application for completeness determination.

2. If the applicant fails to resubmit an incomplete application within 45 days after being notified of submittal deficiencies, the application shall be considered withdrawn.

3. Notwithstanding the other provisions of this subsection, after an application is determined to be incomplete three times, the applicant may request, and the Planning Director shall undertake, processing and review of the application.

c. APPLICATION COMPLETE

If the application is determined to be complete, it shall be reviewed in accordance with the procedures and standards of this Ordinance. Any established time frame for review of the application shall start on the date the application is determined to be complete.

(4) APPLICATION AMENDMENT OR WITHDRAWAL

a. APPLICANT AMENDMENT

1. An applicant may revise an application after receiving initial staff review comments on the application, or upon requesting and receiving permission from an advisory or decision-making body after that body has reviewed but not yet taken action on the application. Revisions shall be submitted to the Planning Director, and shall be limited to changes that directly respond to specific requests or suggestions made by staff, or the advisory or decision-making body, as applicable, as long as such requests or suggestions constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application.

2. Any other revisions to the application may be submitted as a revised application at any time during the review procedure to the Planning Director, in accordance with Section 2.4.D(2) above. The revised application shall be reviewed as if it were a new application. The revised application submittal may be subject to additional application fees to defray the additional costs of processing the revised application.

b. APPLICATION WITHDRAWAL

1. An applicant may withdraw an application by submitting a letter of withdrawal to the Planning Director or through a verbal or written request at a required public hearing.

2. If a request for withdrawal is submitted after notice of a public hearing, withdrawal shall be approved by the Planning and Zoning Commission or the City Council.

3. If an applicant requests or causes continuing postponement of submissions or actions required to complete the application review process, and such postponement causes inaction for six or more months in the review of the application, the application will be considered withdrawn by the applicant, and the Planning Director shall notify the applicant in writing.

4. If an application is withdrawn by the applicant, no further review of the application shall take place unless or until a new application (including new application fees) is submitted and determined to be complete.

   (a) If an application is withdrawn, except as provided in subsection (b) below, no application proposing substantially the same development on all or part of the same land shall be accepted by the City within 180 days after the date of withdrawal.

   (b) If an application requiring a public hearing is withdrawn at a required public hearing, no application proposing substantially the same development on all or part of the same land shall be accepted by the City within one year after the date of withdrawal.

5. Application fees shall not be refunded for withdrawn applications.

(5) SIMULTANEOUS PROCESSING OF APPLICATIONS

Whenever two or more forms of review and approval are required under this Ordinance, the applications for the required development approvals or permits may, at the discretion of the Planning Director, be processed simultaneously, so long as all applicable local and state requirements are satisfied. Simultaneous processing of applications may result in additional fees to the applicant.

(6) EXAMINATION AND COPYING OF APPLICATION/OTHER DOCUMENTS

At any time, upon reasonable request and during normal business hours, any person may examine a development application, a finalized staff report, and materials submitted in support of, or in opposition to, an application submitted to the Planning Department. Copies of such materials shall be made available at reasonable cost.

E. STAFF REVIEW AND ACTION

(1) STAFF REVIEW AND OPPORTUNITY TO REVISE APPLICATION

a. If the application is determined to be complete, the Planning Director shall distribute it to all appropriate City staff and other review agencies for review and comment.

b. The Planning Director shall review the application, relevant support material, and any comments or recommendations from City staff or review agencies to which the application was referred. If deficiencies in complying with applicable standards of this Ordinance are identified, the Planning Director shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss the deficiencies and revise the application to address them, in accordance with Section 2.4.D(4)a, Applicant Amendment.

c. If staff review is required in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director shall prepare a written staff report which assesses whether a development proposal is consistent with the requirements of the KDO.

(2) APPLICATION SUBJECT TO DECISION BY DECISION-MAKING BODY

If the application is subject to review by an advisory or decision-making body in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director shall Transmit the application to all advisory and decision-making bodies that review the application in accordance with Table 2.2: Summary Table of Development Review Responsibilities.

(3) APPLICATION SUBJECT TO DECISION BY PLANNING DIRECTOR OR DIRECTOR OF ENGINEERING

a. DECISION

If the Planning Director or Director of Engineering is authorized to make a decision on the application in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director or Director of Engineering, as applicable, shall, following completion of staff review, make one of the decisions authorized for the particular type of application based on the review standards for the application set forth in Section 2.5, Application-Specific Review Procedures and Standards. The decision shall be in writing and shall state the reasons for denial if the application is denied, or the conditions of approval of the application is approved subject to conditions of approval.

b. CONDITIONS OF APPROVAL

If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Standards, approval of an application may be subject to conditions of approval. Conditions of approval shall be limited to conditions deemed necessary to ensure compliance with the requirements and particular standards of this Ordinance and shall relate in both type and extent to the anticipated impacts of the proposed development.

F. PUBLIC HEARING SCHEDULING AND NOTIFICATION

(1) PUBLIC HEARING SCHEDULING

a. If an application is subject to a public hearing in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director shall ensure that the hearing on the application is scheduled for a regularly scheduled meeting of the body conducting the hearing or a meeting specially called for that purpose by such body.

b. The hearing on the application shall be scheduled so there is sufficient time for public notification required by this Ordinance and state law.

(2) PUBLIC NOTIFICATION

Notification of a public hearing on an application shall be as required by state law and as shown in Table 2.4.F(2): Summary of Public Notification Requirements.

Table 2.4.F(2): Summary of Public Notification Requirements

Application Type	Notice Required		
	Published	Mailed	Posted
Discretionary Approvals			
Text Amendment	Required	None	None

Table 2.4.F(2): Summary of Public Notification Requirements

Application Type	Notice Required		
	Published	Mailed	Posted
Zoning Map Amendment Conditional Zoning Planned Development	Required	Required	Required
Special Use Permit	None	Required	Required
Relief			
Variance – Zoning Variance – Watershed Protection Exception from Subdivision Ordinance Appeal from Administrative Decision Certificate of Nonconformity Adjustment	None	Required	Required

a. MAILED NOTICE REQUIREMENTS

If mailed notice required in accordance with Table 2.4.F(2): Summary of Public Notification Requirements, the Planning Director shall send notice by first class mail at least 10 but not more than 25 days before the date of the public hearing to the following owners of property as shown on the county tax listing:

1. The properties subject to the proposed action;
2. All parcels of land abutting the subject properties, (including land separated by an alley, street, railroad, or other transportation corridor); and
3. All parcels of land within 200 feet of the boundaries of the subject properties.

b. PUBLISHED NOTICE REQUIREMENTS

If published notice is required in accordance with Table 2.4.F(2): Summary of Public Notification Requirements, notice shall be published in a newspaper having general circulation in the City once a week, for two successive calendar weeks, in accordance with state law. The first notice shall be published not less than ten days nor more than 25 days prior to the date fixed for the hearing. In computing the required time period, the day the notice is published shall not be included, but the day of the hearing shall be included.

c. REQUIRED CONTENT OF NOTICE

All mailed and published notices for public hearings shall:

1. Identify the date, time, and place of the public hearing;
2. Describe the land subject to the proposed action by street address or by its relationship to a fronting street and the nearest cross-street (if applicable), and its size; and
3. Describe the nature and scope of the proposed development or action.

d. POSTED NOTICE REQUIREMENTS

1. If posted notice is required in accordance with Table 2.4.F(2): Summary of Public Notification Requirements, the Planning Director shall post a notice of the hearing on the subject property, or on

an adjacent public street or highway right-of-way, at least 10 but not more than 25 days before the date of the public hearing. The notice shall include the following:

(a) The case number of the application;

(b) A phone number to contact the Planning Department during business hours for additional information; and

(c) Any other content necessary to comply with state law.

2. If multiple parcels are involved in the application, a posting on each individual parcel is not required if the Planning Director posts sufficient notices to provide reasonable notice to interested persons.

(3) DEFERRAL OF PUBLIC HEARING

a. BEFORE PUBLIC HEARING NOTICE

If an application is subject to a public hearing and required notice of the hearing has not yet been provided, the applicant may submit a written request to the Planning Director to defer the public hearing. The Planning Director may grant the request to defer consideration of the application for good cause.

b. AFTER PUBLIC HEARING NOTICE

If an application is subject to a public hearing and required notice of the hearing has already been provided, the applicant may request that the hearing be deferred by submitting a written request for deferral to the body scheduled to hold the hearing. On receiving such a request, the body may grant the request for good cause, or if finding no good cause for deferral, may proceed to hold the hearing. If the body grants the request for deferral, it shall concurrently set a new hearing date for the application. If a deferral is granted, the application may be subject to additional application fees to defray the additional costs of processing the application.

G. ADVISORY BODY ACTION

If an application is subject to a recommendation by the Planning and Zoning Commission (See Table 2.2: Summary Table of Development Review Responsibilities), the Planning and Zoning Commission shall review and act on the application in accordance with the following procedures:

(1) The Planning and Zoning Commission shall hold any required public hearing (see Table 2.2: Summary Table of Development Review Responsibilities) in accordance with state law and the Commission's rules of procedure, and shall consider the application, relevant support materials, the staff report, and any public comments. The Commission shall then recommend one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, as set forth in Section 2.5, Application-Specific Review Procedures and Standards. The Commission's recommendation shall state the basis or rationale for the recommendation.

(2) If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Standards, the Commission may recommend conditions of approval. Conditions of approval must relate in both type and extent to the anticipated impacts of the proposed development.

(3) The Planning and Zoning Commission shall act as promptly as possible in consideration of the interests of the applicant, affected parties, and the residents and owners of land in the City.

H. DECISION-MAKING BODY ACTION

If an application is subject to a final decision by the City Council, the Planning and Zoning Commission, or the Board of Adjustment, the relevant decision-making body shall review and decide the application in accordance with the following procedures:

(1) REVIEW AND DECISION

a. GENERAL

The decision-making body shall hold any required public hearing on the application (see Table 2.2: Summary Table of Development Review Responsibilities) in accordance with state law and the body's rules of procedure. At the hearing, the decision-making body shall consider the application, relevant support materials, any advisory body recommendations, and any public comments. It shall then make one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, as set forth in Section 2.5, Application-Specific Review Procedures and Standards.

1. Statement of Basis

The decision-making body shall clearly state the basis or rationale for the decision.

2. Timing

The decision-making body shall take action as promptly as reasonably possible in consideration of the interests of the applicant, affected parties, and the residents and owners of land in the City.

b. CONDITIONS OF APPROVAL

If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Standards, approval of an application may be subject to conditions of approval. Conditions of approval must relate in both type and extent to the anticipated impacts of the proposed development.

I. POST-DECISION LIMITATIONS AND ACTIONS

(1) NOTIFICATION OF DECISION

After a decision has been rendered on an application, the Administrator shall send written notice of the decision to the owner of the property that is the subject of the application and to the applicant, if different from the owner. The notice shall be sent by personal delivery, electronic mail, or first-class mail, to be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application if the applicant is different from the owner.

(2) EFFECT OF APPROVAL

Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application and approval. In the event that one development approval or permit is a prerequisite to another development approval or permit, development may not take place until all required approvals or permits are obtained. Approval of one development application does not necessarily guarantee approval of any subsequent development application.

(3) APPEAL OF DECISION

a. Unless otherwise addressed in Section 2.5, Application-Specific Review Procedures and Standards, an administrative decision may be appealed in accordance with the procedures and standards in Section 2.5.D(4), Appeal of Administrative Decision.

b. A party aggrieved or adversely affected by any decision for which no further administrative review procedure is provided by this Ordinance may seek review of the decision in the courts in accordance with applicable State law.

(4) EXPIRATION

a. Subject to any vested rights and unless otherwise provided in this Ordinance or in state law, development approvals and permits approved set forth in this Ordinance shall automatically expire and become invalid within one year after the date of issuance unless work has substantially commenced in accordace with the development approval or permit.

b. A development approval or permit shall automatically expire at the end of any time period identified in a condition of approval for compliance with the condition, if full compliance with the condition has not occurred, or, if no period of time is identified, one year after the date of approval if full compliance with the condition has not occurred.

c. A change in ownership of the land that is the subject of a development approval or permit shall not affect the established expiration time period for the development approval or permit.

(5) LIMITATION ON SUBSEQUENT APPLICATIONS

a. DISAPPROVED APPLICATIONS

1. If a development application requiring a public hearing is disapproved, an application proposing substantially the same development on all or part of the same land shall not be submitted within one year after the date of disapproval unless the decision-making body waives this time limit in accordance with subsection 2 below. Only one request for a waiver of this time limit may be submitted during the one-year period.

2. The owner of land that is the subject of an application that was disapproved as set out in subsection 1 above, or the owner's authorized agent, may submit a written request for waiver of the time limit established in subsection 1 above, along with a fee to defray the cost of processing the request, to the Planning Director, who shall transmit the request to the decision-making body. The decision-making body may grant a waiver of the time limit only on a finding by at least two-thirds of its membership of one or more of the following:

(a) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the application of the relevant review standards to the development proposed in the application;

(b) New or additional information is available that was not available at the time of review that might reasonably affect the application of the relevant review standards to the development proposed in the application;

(c) The new application proposed to be submitted is not substantially the same as the prior application; or

(d) The final decision on the application was based on a material mistake of fact.

b. WITHDRAWN APPLICATIONS

If an application is withdrawn by an applicant, subsequent applications are limited in accordance with Section 2.4.D(4)b, Application Withdrawal.

SECTION 2.5. APPLICATION-SPECIFIC REVIEW PROCEDURES AND STANDARDS

A. DISCRETIONARY REVIEW

(1) TEXT AMENDMENT

a. APPLICABILITY

The procedure in this section is required for any amendment of the text of this Ordinance, unless the amendment is part of a conditional zoning (see Section 2.5.A(3)), or a planned development (see Section 2.5.A(4)).

b. TEXT AMENDMENT PROCEDURE

Figure 2.5.A(1)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to text amendments. Subsections 1 through 7 below specify the required procedure for a text amendment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(1)b: Summary of Text Amendment Procedure

1. **Pre-Application Conference**

   A pre-application conference is required in accordance with Section 2.4.C, except for applications submitted by City Council or the Planning and Zoning Commission.

2. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D, except authorization to submit an application is given only to the City Council and the Planning and Zoning Commission, any City board, department, or commission, or any person owning land in the City or having a financial or other interest in land in the City.

3. **Staff Review and Action**

   The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

4. **Scheduling of Public Hearing and Public Notification**

   The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

5. **Planning and Zoning Commission Decision**

   The Planning and Zoning Commission shall consider the text amendment request and make a recommendation on the application in accordance with Section 2.4.G. The Planning Board's recommendation shall address whether the proposed amendment is consistent with the Comprehensive Plan and any other applicable plans and policies.

6. City Council Decision

(a) The City Council shall review and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(1)c, Text Amendment Review Standards. The City Council's decision shall be one of the following:

1. Adopt the text amendment as proposed;
2. Adopt a revised text amendment;
3. Deny the text amendment; or
4. Remand the text amendment application to the Planning and Zoning Commission for further consideration.

(b) Prior to deciding to adopt or deny a text amendment, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and
2. States that the amendment is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan

7. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply.

c. TEXT AMENDMENT REVIEW STANDARDS

Amending the text of this Ordinance is a matter committed to the legislative discretion of the City Council. In determining whether to adopt or deny the proposed amendment, the City Council may consider and weigh the relevance of the following factors:

1. Whether and to what extent the proposed amendment is consistent with the Comprehensive Plan and other applicable adopted City plans;

2. Whether the proposed amendment is in conflict with any provision of this Ordinance or the City Code;

3. Whether and to what extent there are changed conditions that require an amendment;

4. Whether and to what extent the proposed amendment addresses a demonstrated community need;

5. Whether and to what extent the proposed amendment is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the City;

6. Whether and to what extent the proposed amendment would result in a logical and orderly development pattern; and

7. Whether and to what extent the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

(2) ZONING MAP AMENDMENT

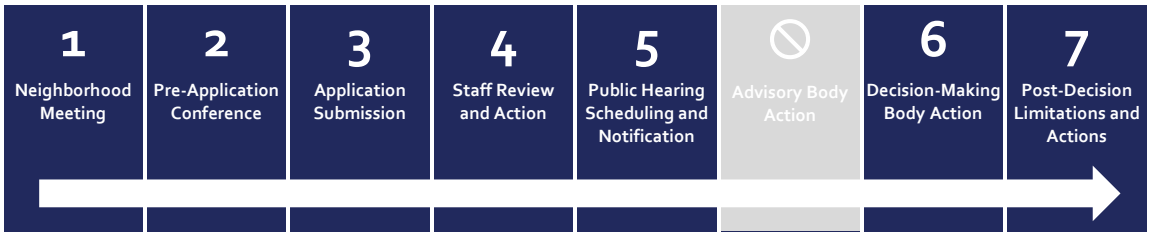
a. APPLICABILITY

The procedure in this section is required for any amendment of the Zoning Map, unless the amendment is part of a conditional zoning (see Section 2.5.A(3)), or a planned development (see Section 2.5.A(4)). No lands may be classified to a Legacy district (CD, CD-R, or C-1) from a district that is not a Legacy district.

b. ZONING MAP AMENDMENT PROCEDURE

Figure 2.5.A(2)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to Zoning Map amendments. Subsections 1 through 8 below specify the required procedure for a Zoning Map amendment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(2)b: Summary of Zoning Map Amendment Procedure



1. Neighborhood Meeting

The applicant shall conduct a neighborhood meeting in accordance with Section 2.4.B if lands are proposed to be zoned to a district that allows greater intensity or density of development, except for applications submitted by City Council or the Planning and Zoning Commission.

2. Pre-Application Conference

A pre-application conference is required in accordance with Section 2.4.C, except for applications submitted by City Council or the Planning and Zoning Commission.

3. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, except authorization to submit an application is extended to the City Council, the Planning and Zoning Commission, and any City board, department, or commission. An application not filed by the City that proposes down-zoning of property must be filed by one of the property owners that would be affected by the amendment and include the written consent of all property owners who would be impacted by the proposed amendment. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

4. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

5. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

6. Planning and Zoning Commission Action

(a) The Planning and Zoning Commission shall hold a public hearing on the application and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(2)c, Zoning Map Amendment Review Standards. The Planning Board's decision shall be one of the following:

1. Approve the application and adopt the Zoning Map amendment; or
2. Deny the application.

(b) Prior to making a decision to adopt or deny a Zoning Map amendment, the Planning and Zoning Commission, and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and

2. States that the amendment is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan and that the Future Land Use and Character Map in the Comprehensive Plan is therefore amended to be consistent with the adopted amendment.

(c) Conditions of approval are not allowed.

7. City Council Action

(a) If any of the following occurs, the City Council shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(2)c, Zoning Map Amendment Review Standards:

1. The Planning Commission denies the application;

2. The Planning Commission approves the application by a vote of less than three-fourths of the members of the Commission; or

3. Any person aggrieved by the Planning and Zoning Commission's decision appeals the decision to the City Council by giving notice in writing to the Planning Director within 15 days of the decision.

(b) The City Council's decision shall be one of the following:

1. Approve the application and adopt the Zoning Map amendment; or

2. Deny the application.

(c) Prior to making a decision to adopt or deny a Zoning Map amendment, the City Council shall adopt a statement in accordance with subsection 6(b) above.

(d) Conditions of approval are not allowed.

8. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) and (b) below.

(a) If the final decision on the application is to adopt the Zoning Map amendment, the Planning Director shall place the amendment on the Zoning Map within a reasonable period of time after the adoption of the amendment.

(b) If the final decision is to deny the application, Zoning Map amendment applications proposing the same zoning on all or a portion of the subject lands will not be considered within one year of the decision. This time limitation does not apply to Zoning Map amendment applications submitted by the City Council or the Planning and Zoning Commission. The Planning Commission may waive this time limitation if it finds there is new and different evidence that was not reasonably available at the time of the original hearing.

c. ZONING MAP AMENDMENT REVIEW STANDARDS

Amending the Zoning Map is a matter committed to the legislative discretion of the Planning and Zoning Commission or of the City Council, as authorized by this section. In determining whether to adopt or deny the proposed amendment, the Planning and Zoning Commission or the City Council, as applicable, may consider, and weigh the relevance of, whether and to what extent the proposed Zoning Map amendment:

1. Is consistent with the Comprehensive Plan and other applicable adopted City plans;

2. Is in conflict with any provision of this Ordinance or the City Code of Ordinances;

3. Corrects an error in the existing zoning present at the time it was adopted;

4. Allows uses that are compatible with existing and allowed uses on surrounding land and with the stability and character of any adjacent residential neighborhoods;

5. Would ensure efficient development within the City, taking into consideration the capacity and safety of the street network, the adequacy of public facilities, the suitability of the land for the uses allowed under the existing zoning, and other relevant considerations;

6. Would result in a logical and orderly development pattern, taking into consideration the size of the subject lands and the zoning and existing and proposed development on surrounding lands; and

7. Would result in significant adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

(3) CONDITIONAL ZONING

a. APPLICABILITY

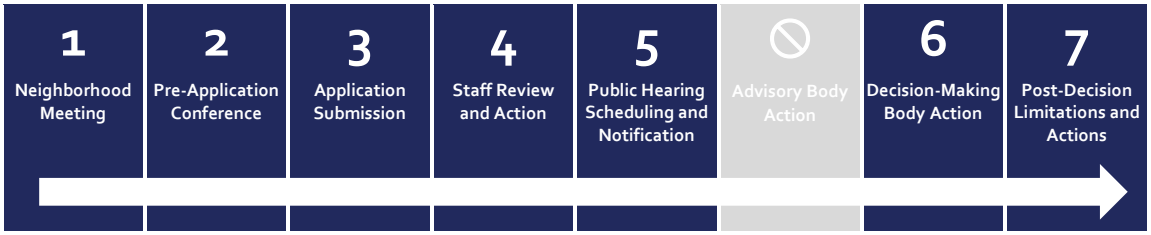
1. The procedure in this section is required for the establishment of a conditional zoning district. A landowner may apply for a conditional zoning in cases where the standards of a general use zoning district are inadequate to ensure that development allowed by the district will conform to the City's adopted plans or to appropriately address the impacts expected to be generated by development.

2. A conditional zoning approved in accordance with this section establishes a conditional zoning district that is equivalent to a corresponding general use zoning district, but is subject to additional conditions or restrictions that the applicant and City mutually agree to in order to ensure conformance to adopted plans and address expected development impacts.

b. CONDITIONAL ZONING PROCEDURE

Figure 2.5.A(3)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to conditional zoning applications. Subsections 1 through 8 below specify the required procedure for a conditional zoning, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(3)b: Summary of Conditional Zoning Procedure



1. **Neighborhood Meeting**

The applicant shall conduct a neighborhood meeting in accordance with Section 2.4.B.

2. **Pre-Application Conference**

A pre-application conference is required in accordance with Section 2.4.C.

3. **Application Submission**

Applications shall be submitted in accordance with Section 2.4.D. The application shall include:

(a) A Traffic Impact Analysis, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA);

(b) A conceptual development plan depicting the proposed development configuration that conforms to the application requirements for conditional zonings in the LDSM; and

(c) Any other conditions of approval proposed by the applicant.

4. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

5. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

6. Planning and Zoning Commission Action

(a) The Planning and Zoning Commission shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(3)c, Conditional Zoning Review Standards. The Planning and Zoning Commission's decision shall be one of the following:

1. Approve the application, subject to conditions of approval, including a conceptual development plan; or

2. Deny the application.

(b) Prior to making a decision to adopt or deny a Conditional Zoning, the Planning and Zoning Commission, and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and

2. States that the conditional zoning is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan and that the Future Land Use and Character Map in the Comprehensive Plan is therefore amended to be consistent with the adopted amendment.

(c) Conditions of approval shall comply with the following requirements:

1. Only conditions of approval mutually agreed to by both the owner(s) of the land and the Planning and Zoning Commission are allowed.

2. Conditions of approval shall be limited to those that address the conformance of the development and use of the site to the KDO and to the Comprehensive Plan or other adopted City plans, and those that address the impacts reasonably expected to be generated by the development or use of the site.

3. Conditions may be in the form of text, plans, or maps.

4. Conditions that are less restrictive than the standards of the corresponding general use zoning district, applicable overlay district(s), or other standards of this Ordinance are not allowed.

7. City Council Action

(a) If any of the following occurs, the City Council shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(3)c, Conditional Zoning Review Standards:

1. The Planning and Zoning Commission denies the application;

2. The Planning and Zoning Commission approves the application by a vote of less than three-fourths of the members of the Commission; or

3. Any person aggrieved by the Planning and Zoning Commission's decision appeals the decision to the City Council by giving notice in writing to the Planning Director within 15 days of the decision.

(b) The City Council's decision shall be one of the following:

1. Approve the application, subject to conditions of approval, including a conceptual development plan; or

2. Deny the application.

(c) Prior to making a decision to adopt or deny a Conditional Zoning, the City Council shall adopt a statement in accordance with subsection 6(b) above.

(d) Conditions of approval shall comply with the following requirements:

1. Only conditions of approval mutually agreed to by both the owner(s) of the land and the City Council are allowed.

2. Conditions of approval shall be limited to those that address the conformance of the development and use of the site to the KDO and to the Comprehensive Plan or other adopted City plans, and those that address the impacts reasonably expected to be generated by the development or use of the site.

3. Conditions may be in the form of text, plans, or maps.

4. Conditions that are less restrictive than the standards of the corresponding general use zoning district, applicable overlay district(s), or other standards of this Ordinance are not allowed.

5. The applicant shall submit a "statement of reasonableness" of the proposed rezoning.

8. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) through (c) below.

(a) Placement on Zoning Map, Recordation

If the final decision on the application is to approve the conditional zoning, the Planning Director shall place the amendment on the Zoning Map within a reasonable period of time after the adoption of the amendment, and the applicant shall:

1. Record the ordinance approving the conditional zoning, including the approved conceptual development plan and conditions of approval, in the office of the register of deeds; and

2. Record a deed restriction upon the subject property that requires compliance with the conditions attached to the Conditional Zoning District ordinance. This deed restriction is perpetually binding on the property, unless the land is rezoned to another district.

(b) Effect of Approval

Lands rezoned to a conditional zoning district shall be subject to the standards applicable to the parallel general use zoning district, as modified by the more restrictive conditions agreed to by the applicant and imposed as conditions of approval by the Planning and Zoning Commission or the City Council, as applicable. These standards and modifying conditions are binding on the land as an amendment to this Ordinance and the Zoning Map.

(c)Subsequent Applications

1. Applications for development approvals and permits within the approved conditional zoning district must include a copy of the recorded notification required by subsection (a) above, affixed with the register's seal and the date, book, and page number of recording.

2. Subsequent development approvals and permits shall comply with the approved conditions and appropriate procedures and standards set forth in this Ordinance; however, subsequent development within the conditional zoning district may include minor deviations from the approved conditions, provided such deviations are limited to the following:

a. Changes addressing technical considerations that could not reasonably be anticipated during the conditional zoning review process; or

b. Changes having no material effect on the character of the approved conditional zoning district or any of its approved terms or conditions, which may include:

1. Driveway locations;

2. Structure floor plan revisions:

3. Minor shifts in building size or location; and

4. Facility design modifications for amenities and the like.

3. Modifications that materially affect the basic configuration or intent of approved conditions are not considered minor deviations under subsection 2 above. Such modifications are considered amendments and may only be approved using the same procedure used to establish the conditional zoning district.

4. If the final decision is to deny the application, conditional zoning applications proposing the same zoning on all or apportion of the subject lands will not be considered within one year of the decision. Planning Commission may waive this time limitation if it finds there is new and different evidence that was not reasonably available at the time of the original hearing.

c. CONDITIONAL ZONING REVIEW STANDARDS

Adopting a conditional zoning is a matter committed to the legislative discretion of the Planning and Zoning Commission or of the City Council, as authorized by this section. In determining whether to adopt or deny the proposed conditional zoning, the Planning and Zoning Commission or the City Council, as applicable, may consider the review standards that apply to Zoning Map amendments in Section 2.5.A(2)c, and the extent to which conditions of approval:

1. Address the impacts reasonably expected to be generated by the development or use of the site, including visual impacts, trash, traffic, service delivery, parking and loading, odors, noise, glare and vibration and not create a nuisance;

2. Can reasonably be implemented and enforced for the subject property; and

3. Will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding general zoning district. If any standards are proposed that are different from the underlying zoning district, the applicant must clearly demonstrate that the overall resultant project is greater than that which is typically allowed by the general district.

(4) PLANNED DEVELOPMENT

a. APPLICABILITY

1. The procedure in this section is required for the establishment of a planned development (PD) district. Planned developments are developments that are planned and developed under unified

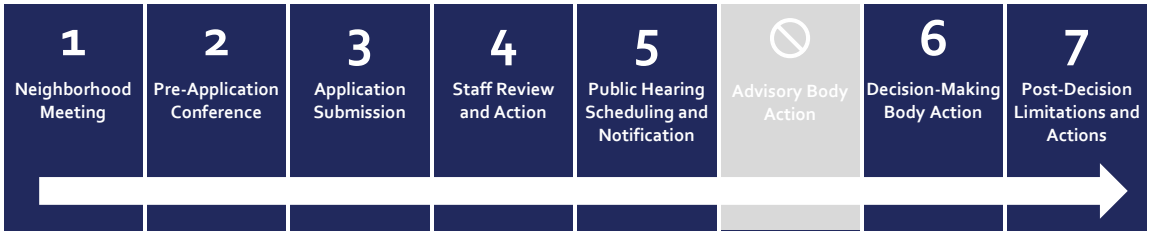
control and in accordance with more flexible standards and procedures in order to create more mixed-use, pedestrian-oriented, and otherwise higher quality development than could be achieved through general use (base) zoning district regulations.

2. A planned development is established by amendment of the Zoning Map to rezone land to a planned development district classification that is defined by a master plan and a terms and conditions document.

b. PLANNED DEVELOPMENT PROCEDURE

Figure 2.5.A(4)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to planned development (PD) applications. Subsections 1 through 8 below specify the required procedure for a planned development, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(4)b: Summary of Planned Development Procedure



1. Neighborhood Meeting

The applicant shall conduct a neighborhood meeting in accordance with Section 2.4.B.

2. Pre-Application Conference

A pre-application conference is required in accordance with Section 2.4.C.

3. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, subject to the following modifications:

(a) In addition to the general application requirements, the application shall include:

1. A Traffic Impact Analysis, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA);

2. A PD master plan depicting the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, open space, public facilities, and phasing;

3. A PD terms and conditions document specifying terms and conditions defining development parameters, providing for environmental mitigation, and outlining how public facilities will be provided to serve the planned development; and

4. A copy of the title to all land that is part of the proposed planned development, in order to ensure unified control.

4. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

5. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

6. Planning and Zoning Commission Action

(a) The Planning and Zoning Commission shall review and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(4)c, Planned Development Review Standards. The Planning and Zoning Commission's decision shall be one of the following:

1. Approve the planned development subject to the PD master plan and PD terms and conditions document in the application;

2. Approve the planned development subject to additional or revised conditions related to the PD master plan or PD terms and conditions; or

3. Deny the planned development.

(b) Prior to making a decision to approve or deny the planned development, the Planning and Zoning Commission, and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and

2. States that the planned development is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan and that the Future Land Use and Character Map in the Comprehensive Plan is therefore amended to be consistent with the adopted amendment.

7. City Council Action

(a) If any of the following occurs, the City Council shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(4)c, Planned Development Review Standards:

1. The Planning and Zoning Commission denies the application;

2. The Planning and Zoning Commission approves the application by a vote of less than three-fourths of the members of the Commission; or

3. Any person aggrieved by the Planning and Zoning Commission's decision appeals the decision to the City Council by giving notice in writing to the Planning Director within 15 days of the decision.

(b) The City Council's decision shall be one of the following:

1. Approve the planned development subject to the PD master plan and PD terms and conditions document in the application;

2. Approve the planned development subject to additional or revised conditions related to the PD master plan or PD terms and conditions;

3. Deny the planned development; or

4. Remand the planned development application to the Planning and Zoning Commission for further consideration and recommendation.

(c) Prior to making a decision to approve or deny the planned development, the City Council shall adopt a statement in accordance with subsection 6(b) above.

8. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) through (d) below.

(a)Placement on Zoning Map

If the City Council approves the planned development, the Planning Director shall place the approved PD district on the Zoning Map within a reasonable period of time after the approval.

(b)Effect of Approval

Lands rezoned to a PD district shall be subject to the approved PD master plan and the approved PD terms and conditions. The master plan and terms and conditions are binding on the land as an amendment to the text of this Ordinance and the Zoning Map. The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the PD master plan in accordance with the appropriate procedures and standards set forth in this Ordinance.

(c)Subsequent Applications

1. Subsequent development approvals and permits within the approved PD district shall comply with the approved PD master plan and the PD terms and conditions; however, subsequent development may include minor deviations from the PD master plan or PD terms and conditions, provided such deviations are limited to:

a. Changes that result in a decrease in the density or intensity of development approved for a specific parcel;

b. An increase in residential density for any specific parcel of ten percent or less, if the total approved density within the planned development district does not increase;

c. A change in land use designation from multifamily to single-family;

d. A change in land use designation from any use to open space/passive recreation;

e. A modification of design of facilities for amenities such as parks, gardens, or open spaces, including a change in the location of up to ten percent of open space acreage;

f. A change in street layout to accommodate other allowable deviation, which does not significantly affect the PD master plan; or

g. A deviation specifically listed in the approved PD terms and conditions as a minor deviation not materially affecting the basic concept of the PD district or the basic parameters set by the PD terms and conditions.

2. Modifications that materially affect the basic concept of the PD master plan or basic parameters set by the PD terms and conditions are not considered minor deviations under subsection 1 above. Such modifications are considered amendments and may only be approved using the same procedure used to approve the planned development district.

(d)Expiration

If no application for approval of a preliminary plat or site plan for any part of the approved PD master plan is submitted within two years after approval of the planned development, irrespective of any intervening transfer of ownership, the Planning Director may initiate a zoning map amendment application to rezone the land back to its prior zoning classification or to any other base zoning classification determined to be appropriate; however, the applicant may request and the Planning Director may grant one extension of the two-year period of up to 180 days upon a showing of good cause, if the request is submitted at least 30 days before the approval expires.

C. PLANNED DEVELOPMENT REVIEW STANDARDS

Approval of a planned development is a matter committed to the legislative discretion of the Planning and Zoning Commission or of the City Council, as authorized by this section. In

determining whether to approve or deny the proposed planned development, the Planning and Zoning Commission or the City Council, as applicable, may consider the review standards that apply to Zoning Map amendments in Section 2.5.A(2)c, and shall consider the standards for the proposed type of PD district in Section 3.7.B, Planned Development District .

(5) SPECIAL USE PERMIT

a. APPLICABILITY

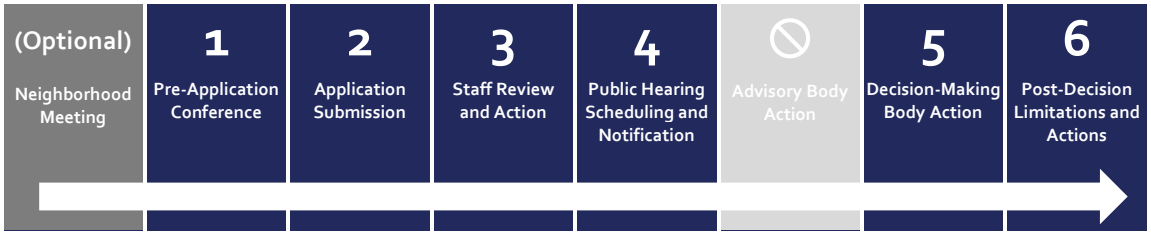
1. The procedure in this section is required for the submission and review of special use permit applications.

2. A special use permit is required prior to the issuance of a site plan, zoning clearance permit, or certification of compliance for any use designated by this Ordinance as a special use. A use is designated as a special use in a particular zoning district (see Section 4.2, Principal Uses) if the use may be appropriate in the district, but, because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

b. SPECIAL USE PERMIT PROCEDURE

Figure 2.5.A(5)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to special use permits. Subsections 1 through 6 below specify the required procedure for a special use permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(5)b: Summary of Special Use Permit Procedure



1. Pre-Application Conference

A pre-application conference is required in accordance with Section 2.4.C.

2. Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The application shall include a development plan depicting the proposed development and containing all information required by the LDSM. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

3. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

4. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

5. Decision-Making Body Hearing, Review, and Decision

The Board of Adjustment shall hold a quasi-judicial hearing on the application and make a decision in accordance with Section 2.4.H and Section 2.5.A(5)c, Special Use Permit Review Standards. The Board's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application subject to conditions of approval; or

(c) Deny the application.

6. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Approval of a special use permit shall automatically expire after two years if a building permit for the authorized use is not obtained or if construction is not started. The approval of a special use permit may be extended if the Planning Director determines that building permit and construction activity did not begin because of factors related to the allocation of wastewater capacity for the project. Written notice of the decision shall be sent to the owner of the property that is subject to the special use permit and to the applicant, if different than the owner.

(c) If the application is denied, resubmittal of an application for substantially the same special use permit is not allowed unless the Planning Director determines there has been a substantial change in circumstances.

c. SPECIAL USE PERMIT REVIEW STANDARDS

The Board of Adjustment shall approve a special use permit application only on making the following determinations:

1. The proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Comprehensive Plan;

2. Adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads;

3. The proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;

4. The establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district;

5. The establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare;

6. The proposed use complies with all applicable provisions of this Ordinance; and

7. The applicant consents in writing to all conditions of approval included in the approved special use permit.

B. SITE PLAN AND SUBDIVISION

(1) SITE PLAN

a. PURPOSE

Site plan review is intended to ensure that the layout and general design of proposed development is compatible with surrounding uses and complies with all applicable standards in this Ordinance and all other applicable City regulations.

b. APPLICABILITY

Site plan review and approval is required for all development except:

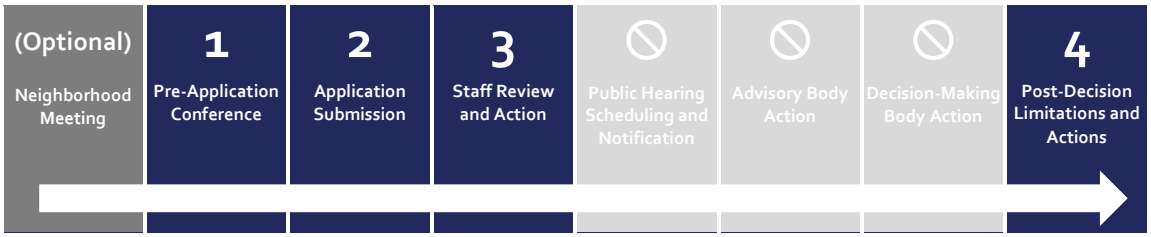
1. Development limited to single-family detached dwellings and duplexes on individual lots; and

2. Alterations of an existing structure limited to the interior of the structure that does not involve an increase in floor area, an increase in the density or intensity of use, or a change in parking requirements.

c. SITE PLAN PROCEDURES

Figure 2.5.B(1) summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to site plans. Subsections 1 through 4 below specify the required procedure for a site plan, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(1): Summary of Site Plan Procedure



1. Pre-Application Conference

A pre-application conference is required for development involving commercial uses having a gross floor area of 25,000 or more square feet and may be held at the option of the applicant in other cases in accordance with Section 2.4.C.

2. Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

3. Staff Review and Action

The Planning Director shall review the application and make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(1)d, Site Plan Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Approval of a site plan shall automatically expire one year after the date of approval if a complete zoning clearance permit or grading permit has not been submitted or if substantial construction is not underway.

d. SITE PLAN REVIEW STANDARDS

The Planning Director shall approve an application for a site plan only after determining that the applicant demonstrates that the proposed development complies with all applicable standards in

this Ordinance and all other applicable City codes and regulations, including the City's adopted Fire Code. Fire flows and hydrant locations shall be determined by the Kannapolis Fire Department.

(2) MINOR SUBDIVISION

a. PURPOSE

The purpose of minor subdivision review under this section is to ensure that subdivisions that do not involve new public street dedications comply with the standards for subdivisions in this Ordinance and with state law.

b. APPLICABILITY

1. Approval of a minor subdivision preliminary plat and a minor subdivision final plat in accordance with the procedures and standards in this subsection is required for any subdivision as defined in Article 10: Definitions, resulting in five or fewer lots that does not involve new public street right-of-way dedications, except widening of existing, platted street rights-of-way.

2. Minor subdivision preliminary plan approval in accordance with subsection c below is required prior to minor subdivision final plat approval in accordance with subsection d below or installation of any public improvements proposed as part of the subdivision. Public improvements must be completed or appropriate guarantees, bonds, and sureties provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties, prior to the approval of a minor subdivision final plat approval in accordance with subsection d below.

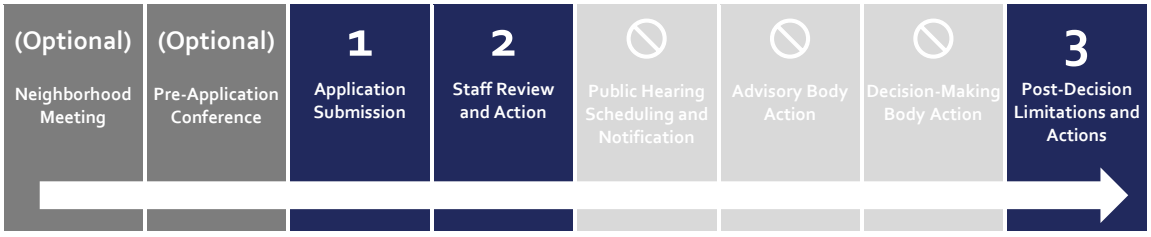
3. Minor subdivision final plat approval in accordance with subsection d below is required before any the recordation of the final plat, any conveyance of proposed lots, or the submittal of any application for a zoning clearance permit for development on any lot or parcel proposed as part of the subdivision.

c. MINOR SUBDIVISION PRELIMINARY PLAT

1. Minor Subdivision Preliminary Plat Procedure

Figure 2.5.B(2)c.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to minor subdivision preliminary plats. Subsections (a) through (c) below specify the required procedure for a minor subdivision preliminary plat, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(2)c.1: Summary of Minor Subdivision Preliminary Plat Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

The Planning Director, upon consultation with the Director of Engineering, shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and

Action, and Section 2.5.B(2)c.2, Minor Subdivision Preliminary Plat Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;

2. Approve the application subject to conditions of approval; or

3. Deny the application.

(c)Post-Decision Limitations and Actions

1. The post-decision limitations and actions in Section 2.4.I apply.

2. After approval of the minor subdivision preliminary plat, the applicant may proceed directly to the filing of an application for a minor subdivision final plat in accordance with Section 2.5.B(2)d, Minor Subdivision Final Plat, subject to subsection 2 below.

3. Any extension of utilities or other public improvements must be approved by the Director of Engineering using the procedure and standards that apply to major subdivision construction plans in Section 2.5.B(3)d, Major Subdivision Construction Plans.

4. Approval of a minor subdivision preliminary plat shall automatically expire one year after the date of approval if a final plat for the subdivision is not submitted in accordance with Section 2.5.B(2)d, Minor Subdivision Final Plat.

2. Minor Subdivision Preliminary Plat Review Standards

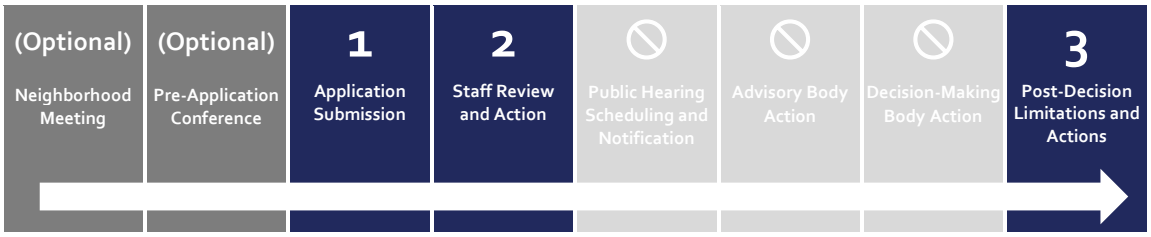
The Planning Director shall approve an application for a minor subdivision preliminary plat only after finding that the preliminary plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations.

d. MINOR SUBDIVISION FINAL PLAT

1. Minor Subdivision Final Plat Procedure

Figure 2.5.B(2)d.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to minor subdivision final plats. Subsections (a) through (c) below specify the required procedure for a minor subdivision final plat, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(2)d.1: Summary of Minor Subdivision Final Plat Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

Prior to approval of a final plat, the Planning Director shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable.

The Planning Director shall consult with the Director of Engineering if the subdivision includes water or sewer utility extensions, and shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(2)d.2, Minor Subdivision Final Plat Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c) Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections 1 through 3 below.

1. If the application is approved, the applicant shall revise the final plat as necessary to comply with any conditions of approval and shall submit the revised plat to the Planning Director. Upon determining that the plat is properly revised, the Planning Director, and, as appropriate, the Director of Engineering, shall sign the plat and provide any other certifications as may be appropriate.

2. Approval of a minor subdivision final plat shall automatically expire and become null and void 30 days after its approval if the applicant has not filed the plat in the office of the register of deeds. The Planning Director may grant up to two extensions of that time period, each up to 180 days, for good cause.

3. No zoning clearance permit shall be issued or approved until addresses and P.I.N.s (Parcel Identification Numbers) have been assigned to the lots.

2. Minor Subdivision Final Plat Review Standards

The Planning Director shall approve a minor subdivision final plat application only after finding the following:

(a) The final plat is in substantial conformity with the approved and valid minor subdivision preliminary plat;

(b) The final plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations; and

(c) Any improvements, including utility extensions, have been installed, inspected, and certified in accordance with applicable City and state regulations and utility requirements, or appropriate guarantees, bonds, and sureties have been provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties.

(3) MAJOR SUBDIVISION

a. PURPOSE

The purpose of major subdivision review under this section is to ensure that all subdivisions that are not minor subdivisions comply with the standards for subdivisions in this Ordinance and with state law.

b. APPLICABILITY

1. Approval of a major subdivision preliminary plat, major subdivision construction plans, and major subdivision final plat in accordance with the procedures and standards in this subsection is required for any subdivision as defined in Article 10: Definitions, that is not subject to minor subdivision review in accordance with Section 2.5.B(2), Minor Subdivision.

2. Major subdivision preliminary plat approval is required prior to approval of major subdivision construction plans or major subdivision final plats.

3. Approval of major subdivision construction plans is required prior to the installation streets, traffic control devices, streetlights, sanitary sewers, storm water facilities, water system facilities, sidewalks and other required improvements.

4. All required public improvements must be completed in accordance with approved construction plans, subject to any modifications approved by the Director of Engineering prior to approval of a major subdivision final plat, unless appropriate guarantees, bonds, and sureties have been provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties.

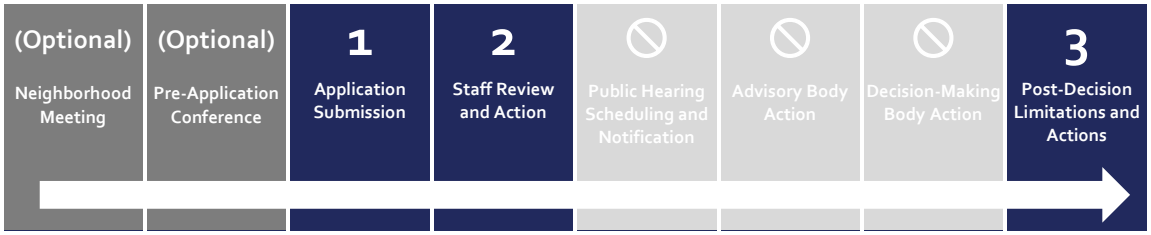
5. Final plat approval is required before the recordation of the final plat, any conveyance of proposed lots, or the submittal of any application for a zoning clearance permit for development on any lot or parcel proposed as part of the subdivision.

C. MAJOR SUBDIVISION PRELIMINARY PLAT

1. Major Subdivision Preliminary Plat Procedure

Figure 2.5.B(3)c.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to major subdivision preliminary plats. Subsections (a) through (c) below specify the required procedure for a major subdivision preliminary plat, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(3)c.1: Summary of Major Subdivision Preliminary Plat Procedure



(a) Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

(b) Staff Review and Action

The Planning Director shall review the application and the comments on the application provided by the TRC and shall make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(3)c.2, Major Subdivision Preliminary Plat Decision Standards. The Planning Director's decision on the application shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c) Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections 1 through 3 below.

1. Revised Plat Required

If the application is approved subject to conditions of approval, the applicant shall revise the preliminary plat as necessary to comply with any conditions of approval and shall file the revised plat with the Planning Director. No final plat of the subdivision may be approved until the revised preliminary plat has been filed with the Planning Director.

2. Expiration

a. Approval of a major subdivision preliminary plat shall automatically expire if a final plat of the subdivision is not approved within the time period(s) specified for final plat approval on the preliminary plat, or, if no time period is specified, within two years. Approval of a major subdivision final plat covering a portion of a preliminary plat shall re-establish the starting date for the period of validity of the preliminary plat to the date the final plat was approved if no additional time period is specified on the preliminary plat.

b. The Planning Director may grant an extension of the time period set forth in subsection **a** above for good cause on receiving a written request from the landowner prior to the expiration of the preliminary plat approval. If the Planning Director grants an extension, it shall provide written notification to the landowner specifying the time period of the extension. After the time period of the extension, the preliminary plat approval shall automatically expire and become void if a final plat of the subdivision is not approved.

3. Deviations

The Planning Director shall have the authority to approve the following deviations from an approved major subdivision preliminary plat. Deviations are restricted to parcel boundaries internal to the subdivision and shall not impact external property boundaries.

a. A change in the location of not more than ten percent of the number of lots;

b. A change in the location of any part of open space acreage of not more than ten percent of the gross acreage; or

c. A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in Section 5.1.C(6)b.1, Minimum Connectivity Ratio, is maintained.

2. Major Subdivision Preliminary Plat Decision Standards

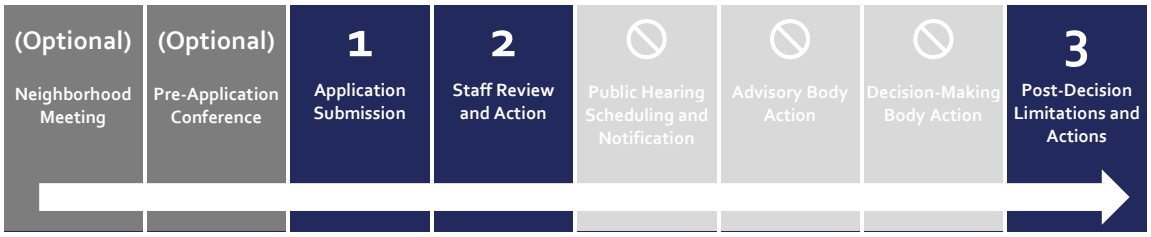
The Planning Director shall approve an application for a major subdivision preliminary plat on finding that the preliminary plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations.

d. MAJOR SUBDIVISION CONSTRUCTION PLANS

1. Major Subdivision Construction Plans Procedure

Figure 2.5.B(3)d.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to major subdivision construction plans. Subsections (a) through (c) below specify the required procedure for major subdivision construction plans, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(3)d.1: Summary of Major Subdivision Construction Plans Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

The Director of Engineering shall review the application and make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(3)d.2, Major Subdivision Construction Plans Review Standards. The Director of Engineering's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c)Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply. In addition, the provisions in subsections 1 through 4 below apply.

1. All installations of improvements shall conform to the approved construction plans; however, modifications in design or specifications may be approved by the Director of Engineering prior to construction. The applicant shall notify the Planning Director of any approved modification in design or specification prior to commencing work on the improvement.

2. Any construction work that deviates from the approved construction plans, or modifications thereof approved by the Director of Engineering, shall constitute a violation of this Ordinance in accordance with Section 8.3, Violations, subject to the remedies and penalties in Section 8.6, Remedies and Penalties.

3. Prior to final inspection of the required improvements, the applicant shall submit to the Planning Director and Director of Engineering as-built engineering drawings for each of the required improvements that have been completed, in accordance with the requirements in the LDSM. Each set of drawings shall be re-certified by the applicant's engineer indicating the date when the as-built survey was made.

4. Approval of the installation of improvements by the Director of Engineering shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in a subdivision shall not bind the City to accept such improvements for their maintenance, repair or operation. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

2. Major Subdivision Construction Plans Review Standards

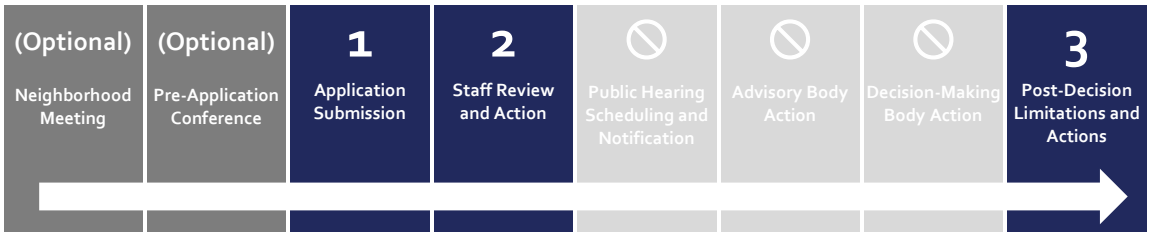
The Director of Engineering shall approve major subdivision construction plans after finding that the plans comply with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City and state regulations.

e. MAJOR SUBDIVISION FINAL PLAT

1. Procedure

Figure 2.5.B(3)e.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to major subdivision final plats. Subsections (a) through (c) below specify the required procedure for major subdivision final plats, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(3)e.1: Summary of Major Subdivision Final Plat Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

Prior to approval of a final plat, the Planning Director shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable. The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(3)e.2, Major Subdivision Final Plat Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c)Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections 1 through 3 below.

1. If the application is approved, the applicant shall revise the final plat as necessary to comply with any conditions of approval and shall submit the revised plat to the Planning Director. Upon determining that the plat is properly revised, the Planning Director, and, as appropriate, the Director of Engineering, shall certify that the final plat is approved by the City in accordance with this Ordinance by signing the plat and providing any other certifications as may be appropriate.

2. Approval of a major subdivision final plat shall automatically expire and become null and void 30 days after its approval if the applicant has not filed the plat in the office of the register of deeds. The Planning Director may grant up to two extensions of that time period, each up to 180 days, for good cause.

3. No zoning clearance permit shall be issued or approved until addresses and P.I.N.s (Parcel Identification Numbers) have been assigned to the lots.

2. Major Subdivision Final Plat Review Standards

The Planning Director shall approve a major subdivision final plat application only after finding the following:

(a) The final plat is in substantial conformity with the approved and valid major subdivision preliminary plat;

(b) The final plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations; and

(c) All improvements have been completed in accordance with applicable City and state regulations and utility requirements, or appropriate guarantees, bonds, and sureties have provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties.

(4) EXEMPT SUBDIVISION DETERMINATION

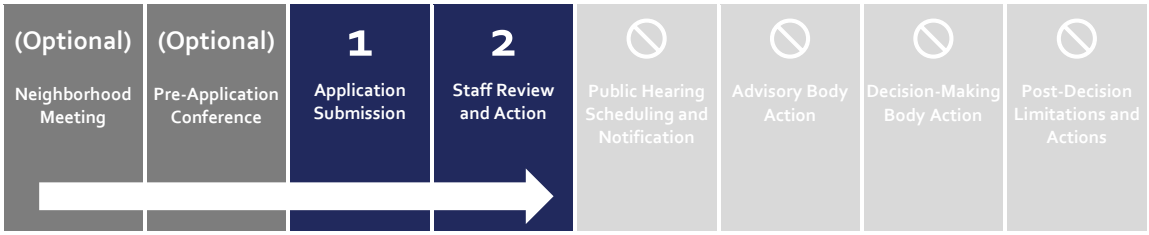
a. PURPOSE

The purpose of this section is to provide a uniform mechanism for the Planning Director to certify that a proposed division of land is exempt from the definition of subdivision under state law and not subject to approval by the City.

b. EXEMPT SUBDIVISION DETERMINATION PROCEDURE

Figure 2.5.B(4)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to exempt subdivision determinations. Subsections1 and 2 below specify the required procedure for an exempt subdivision determination, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(4)b: Summary of Exempt Subdivision Determination Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Staff Review and Action

The Planning Director shall review the application in accordance with Section 2.4.E, Staff Review and Action, and shall do one of the following in accordance with Section 2.5.B(4)c, Exempt Subdivision Determination Review Standards:

(a) Enter onto the plat or other instrument, as applicable, the Planning Director's signed certification that the proposed division of land does not constitute a subdivision subject to approval by the City; or

(b) Return the application to the applicant, along with a written explanation describing why the proposed division of land constitutes a subdivision subject to review by the City.

c. EXEMPT SUBDIVISION DETERMINATION REVIEW STANDARDS

The Planning Director shall enter onto the plat or other instrument, as applicable, the Planning Director's signed certification that the proposed division of land does not constitute a subdivision subject to approval by the City on determining that the proposed division is any of the following:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards in Article 6: Subdivision Standards.
2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards in Article 6: Subdivision Standards.
5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.

C. PERMITS

(1) ZONING CLEARANCE PERMIT

a. PURPOSE

The purpose of a zoning clearance permit is to ensure that any development requiring a building permit, construction not requiring a building permit, or change of use of a structure or land complies with the requirements of this Ordinance.

b. APPLICABILITY

1. Approval of a zoning clearance permit in accordance with the procedure and standards in this section is required prior to any of the following:

   (a) The issuance of a building permit;

   (b) The commencement of construction of any structure that does not require a building permit; or

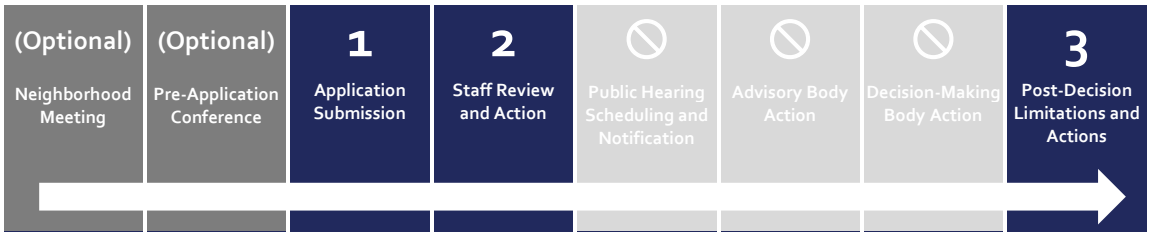
   (c) A change of use of any structure or land.

2. If proposed development requires approval of a zoning clearance permit in accordance with this section and approval of a site plan in accordance with Section 2.5.B(1), Site Plan, the corresponding approved site plan must be submitted with the application for a zoning clearance permit.

c. ZONING CLEARANCE PERMIT PROCEDURE

Figure 2.5.C(1)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to zoning clearance permits. Subsections 1 through 3 below specify the required procedure for a zoning clearance permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(1)c: Summary of Zoning Clearance Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. If the proposed development is not subject to site plan review (see Section 2.5.B(1), Site Plan), a plot plan meeting the requirements set forth in the LDSM must be submitted with the application. The plot plan shall show, at a minimum, all existing structures, proposed structures, setbacks, applicable easements, sight triangles, and existing or proposed tap locations.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(1)d, Zoning Clearance Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A zoning clearance permit shall automatically expire one year after the date it is issued if:

1. The permit was issued for activity requiring a building permit and the building permit was not been obtained;

2. The permit was issued for construction activities not requiring a building permit and those activities did not commence; or

3. The permit was issued for a change of use only and the change of use did not occur.

d. ZONING CLEARANCE PERMIT REVIEW STANDARDS

The Planning Director shall approve an application for a zoning clearance permit only on determining that the proposed activity complies with this Ordinance.

(2) CERTIFICATE OF COMPLIANCE

a. PURPOSE

The purpose of a certificate of compliance is to ensure that any building or land that is erected, changed, converted, altered, or enlarged is not used or occupied, or connected to or provided with utilities, unless it complies with the requirements of this Ordinance.

b. APPLICABILITY

1. Approval of a certificate of compliance in accordance with the procedures and standards in this section is required if a building or land is erected, changed, converted, altered, or enlarged prior to any of the following:

(a) The use or occupancy of the building or land; or

(b) The provision or connection of utilities to the building or land.

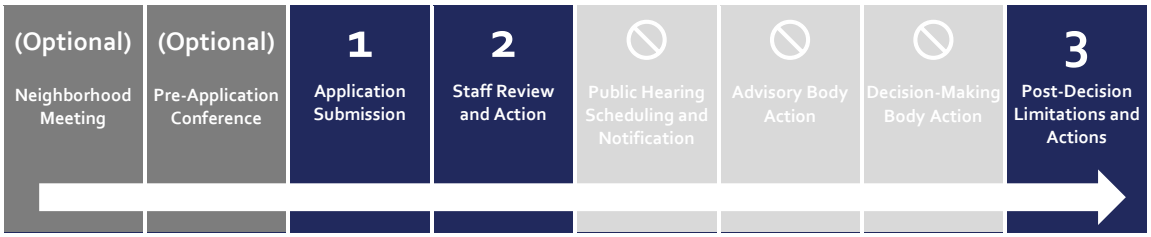
2. The Planning Director may issue a certificate of compliance that is valid for up to 180 days to allow for partial occupancy of a structure or land in order to complete construction or alteration, or to allow for utilities to be connected to an unoccupied structure for rent or sale.

3. If proposed development requires approval of a certificate of compliance in accordance with this section and approval of a site plan in accordance with Section 2.5.B(1), Site Plan, the corresponding approved site plan must be submitted with the application for a certificate of compliance.

c. CERTIFICATE OF COMPLIANCE PROCEDURE

Figure 2.5.C(2)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to certificates of compliance. Subsections 1 through 3 below specify the required procedure for a certificate of compliance, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(2)c: Summary of Certificate of Compliance Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. In addition, if the proposed development is not subject to site plan review (see Sec. Section 2.5.B(1)b, Applicability), a plot plan meeting the requirements set forth in the LDSM must be submitted with the application.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(2)d, Certificate of Compliance Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) and (b) below.

(a)Expiration

1. Subject to subsection (b) below, a certificate of compliance shall remain valid unless the building or land for which the certificate was issued is in violation of this Ordinance (see Section 8.3, Violations).

2. A certificate of compliance shall automatically expire one year after the date it is issued if:

a. The certificate was issued to allow for partial occupancy of a structure or land in order to complete construction or alteration; or

b. The certificate was issued to allow for utilities to be connected to an unoccupied structure for rent or sale.

(b)Performance Guarantee

1. If improvements cannot be completed or installed due to adverse weather conditions or other reasonable factors, the applicant may submit to the Planning Director a performance guarantee for the improvements in the form of a certified check, cashier's check, bond, or letter of credit. The performance guarantee shall be in the amount of 125 percent of the written estimate required by subsection b below. The applicant shall submit the following information with the guarantee:

a. A specific description of the factors hindering completion or installation of the improvements; and

b. A written estimate from a licensed contractor of the cost of materials and labor for completing the work.

2. On receipt of a performance guarantee in accordance with subsection 1 above, the Planning Director shall accept the performance guarantee if the submission of a performance guarantee is appropriate and if the estimate is acceptable. The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to competition of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125 percent of the estimated cost of incomplete improvements for the duration necessary to complete the required improvements,

3. The Planning Director shall release the performance guarantee on determining that the improvements have been completed and installed in accordance with this Ordinance.

4. If improvements are not completed and installed within 180 days after the certificate of compliance is issued, the Planning Director may draw on the performance guarantee to complete and install the improvements, after providing 30-days written notice to the applicant. The applicant may request, and the Planning Director may grant, for good cause shown, up to two 180-day extensions of the initial 180-day period if the applicant requests the extension(s) before the end of the initial period or the extension period, as applicable.

d. CERTIFICATE OF COMPLIANCE REVIEW STANDARDS

The Planning Director shall approve an application for a certificate of compliance only on determining that:

1. All completed improvements of the building or land for which the certificate of compliance is sought comply with this Ordinance; and

2. The applicant has submitted an appropriate performance guarantee in accordance with Section 2.5.C(2)c.3(b), Performance Guarantee, for any improvements that have not been completed.

(3) TREE REMOVAL PERMIT

a. PURPOSE

The purpose of a tree removal permit is to ensure that the removal of trees on land that is not subject to an approved site plan, subdivision, grading permit, or zoning clearance permit complies with the standards in Section 5.3.J, Tree Protection.

b. APPLICABILITY

1. Except for activities exempted by subsection 2 below, approval of a tree removal permit in accordance with the procedure and standards in this section is required prior to any clear-cutting or significant land-disturbing activities. For the purposes of this sub-section, "significant land-disturbing activities" includes deposition or removal of fill, grading or grubbing of a site, and trenching.

2. The following activities are exempt from the requirements of this section:

(a) The removal of dead or naturally fallen trees;

(b) The removal of diseased trees posing a threat to adjacent trees;

(c) The selective and limited removal of trees or vegetation necessary to obtain clear visibility within sight distance triangles;

(d) Removal of trees on developed single-family residential lots or lots within a single-family residential subdivision that was platted prior to July 1, 2022;

(e) Land-disturbing activities and tree removal in accordance with a site plan, preliminary plat, or building permit approved after July 1, 2022;

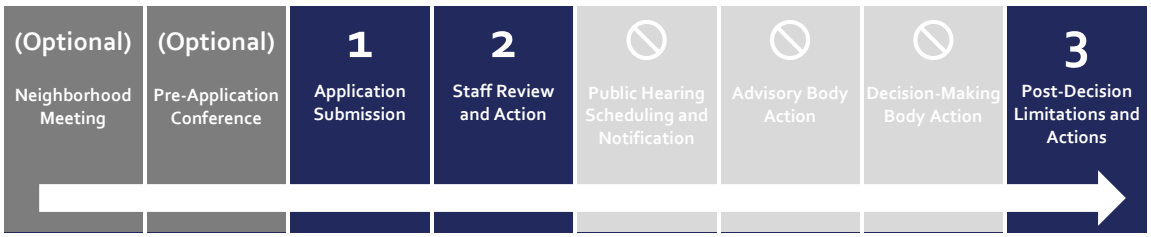
(f) The removal of vegetation by public or private agencies within the lines of any right-of-way, easement, or other City-owned lands as may be necessary to ensure public safety; and

(g) Land disturbing activities undertaken on land under agricultural, horticultural, or forest production and taxed at present-use value in accordance with state law.

c. TREE REMOVAL PERMIT PROCEDURE

Figure 2.5.C(3)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to tree removal permits. Subsections 1 through 3 below specify the required procedure for a tree removal permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(3)c: Summary of Tree Removal Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(3)d, Tree Removal Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A tree removal permit shall automatically expire 180 days after the date it is issued.

d. TREE REMOVAL PERMIT REVIEW STANDARDS

The Planning Director shall approve a tree removal permit application only on finding the following:

1. All protected trees within the site are preserved or maintained during and after any tree removal or other land-disturbing activity, or a plan for mitigation consistent with the requirements in Section 5.3.J(7), Replacement/Mitigation of Specimen Trees, has been approved by the Planning Director; and

2. A tree protection zone around all protected trees to be preserved is established consistent with the requirements in Section 5.3.J(4), Tree Protection Zone Established. If a tract or site proposed for tree removal or other land-disturbing activity contains no protected trees, the tree removal permit shall indicate that no tree protection zones are required.

(4) TEMPORARY USE PERMIT

a. PURPOSE

The purpose of a temporary use permit is to ensure that certain uses occurring on a short-term, seasonal, or transient basis comply with the standards for those uses in this Ordinance.

b. APPLICABILITY

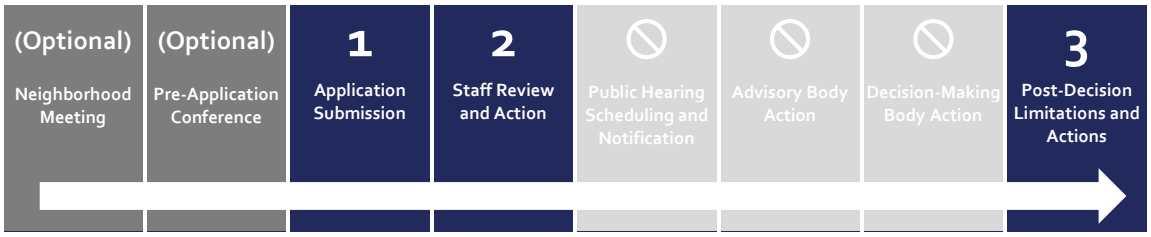
1. Approval of a temporary use permit in accordance with the procedure and standards in this section is required prior to the commencement of any temporary use or structure identified as requiring a temporary use permit in Section 4.4, Temporary Uses and Structures.

2. For any single parcel of land, a maximum of one temporary use permit shall be permitted at any given time.

c. TEMPORARY USE PERMIT PROCEDURE

Figure 2.5.C(4)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to temporary use permits. Subsections 1 through 3 below specify the required procedure for a temporary use permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(4)c: Summary of Temporary Use Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission.

2. Staff Review and Action

(a) The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(4)d, Temporary Use Permit review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application, subject to conditions of approval; or
3. Deny the application.

(b) If the application is approved, the Planning Director shall ensure that the temporary use permit specifies the time period during which the permit is valid.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A copy of the temporary use permit shall be prominently displayed on the site of the temporary use or structure.

(c) A temporary use permit shall be effective beginning on the date specified on the permit and shall remain effective only for the period specified on the permit, subject to subsection (c) below.

(d) A temporary use permit shall automatically expire on the subsequent issuance of a temporary use permit for the same parcel of land.

d. TEMPORARY USE PERMIT REVIEW STANDARDS

The Planning Director shall approve a temporary use permit application only after finding that the temporary use or structure, as proposed, complies with the relevant standards in Section 4.4, Temporary Uses and Structures.

(5) HOME OCCUPATION PERMIT

a. PURPOSE

The purpose of a home occupation permit is to ensure that home occupations comply with the standards in Section 4.3.D(11), Home occupation. The purpose of this section is to provide a uniform mechanism for allowing residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards to ensure the use:

1. Is compatible with, and does not have a deleterious effect on, adjacent and nearby residential properties and uses; and

2. Does not burden public and private services, such as streets, sewers, and water or utility systems, to a greater degree than that normally associated with the residential use.

b. APPLICABILITY

1. Except for activities exempted by subsection 2 below, approval of a home occupation permit in accordance with the procedure and standards in this section is required prior to the establishment of a home occupation (see Article 10: Definitions).

2. The following activities are exempt from the requirements of this section:

(a) Artists, sculptors, composers not selling their artistic product to the public on the premises;

(b) Craft work, such as jewelry-making and pottery, that does not include sales to the public on the premises;

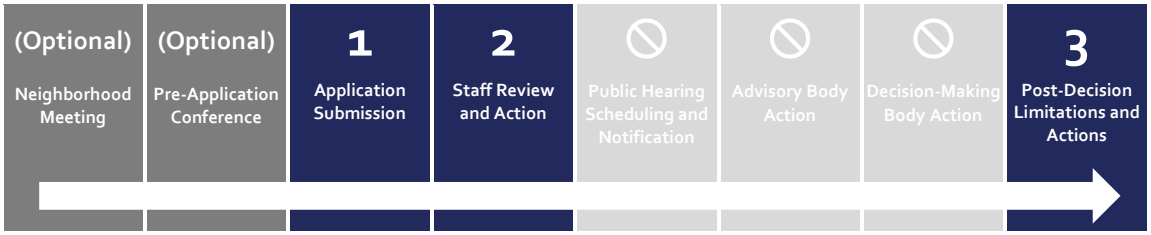
(c) Home offices that do not include visits by customers or clients to the premises; and

(d) Telephone answering and messaging services.

c. HOME OCCUPATION PERMIT PROCEDURE

Figure 2.5.C(5)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to home occupation permits. Subsections 1 through 3 below specify the required procedure for a home occupation permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(5)c: Summary of Home Occupation Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(5)d, Home Occupation Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply, except the expiration of a home occupation permit shall be in accordance with subsection (b) below.

(b) A home occupation permit shall automatically expire if any of the following occur:

1. The principal use of the property is no longer a dwelling;

2. The dwelling is sold or rented and is not renewed within 30 days after written notice of the discontinuance from the Planning Director; or

3. The home occupation is discontinued for a period of 180 days or more and is not renewed within 30 days after written notice of the discontinuance from the Planning Director.

d. HOME OCCUPATION PERMIT REVIEW STANDARDS

The Planning Director shall approve a home occupation permit application only on finding that the proposed use complies with the standards in Section 4.3.D(11), Home occupation.

(6) SIGN PERMIT

a. PURPOSE

The purpose of this section is to ensure that signs comply with this Ordinance and with other applicable City and state regulations.

b. APPLICABILITY

1. Unless exempted by subsection 2 below, approval of a sign permit in accordance with the procedure and standards in this section is required before any sign is erected, replaced, relocated, or altered.

2. The following signs are exempt from the requirements of this section:

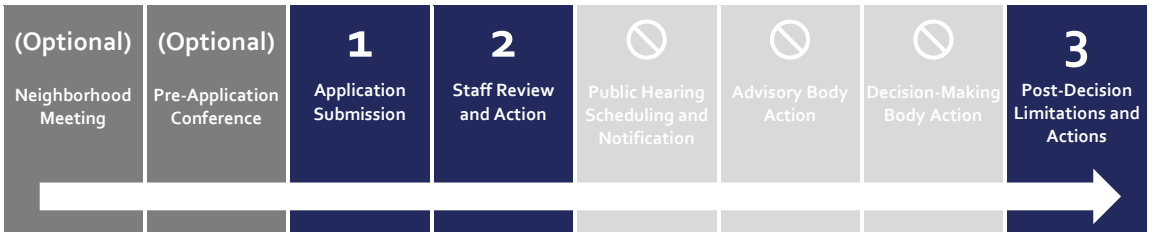
(a) Signs identified in Section 5.9.B(2), Exempt Signs, as exempt from the signage regulations in Section 5.9, Sign Standards; and

(b) Signs identified in Section 5.9.D, Signs That Do Not Require a Sign Permit, as not requiring a sign permit in accordance with this section (but still required to comply with the standards in Section 5.9, Sign Standards).

c. SIGN PERMIT PROCEDURE

Figure 2.5.C(6)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to sign permits. Subsections 1 through 3 below specify the required procedure for a sign permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(6)c: Summary of Sign Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, a signage plan meeting the requirements set forth in the LDSM.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(6)d, Sign Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply.

d. SIGN PERMIT REVIEW STANDARDS

The Planning Director shall approve a sign permit application only on finding the application complies with the standards in Section 5.9, Sign Standards, and any other relevant provisions of this Ordinance, including valid development approvals and permits.

(7) GRADING PERMIT

a. PURPOSE

The purpose of a grading permit is to ensure that any land disturbing activity (see Article 10: Definitions) complies with this Ordinance and with other applicable City and state regulations.

b. APPLICABILITY

1. Unless exempted by subsection 2 below, approval of a grading permit is required prior to the commencement of any land disturbing activity (see Article 10: Definitions).

2. A grading permit is not required for any of the following:

(a) Uses in the Agricultural/Rural use classification (see Section 4.2.C, Classification of Principal Uses);

(b) Development limited to a single-family detached home; and

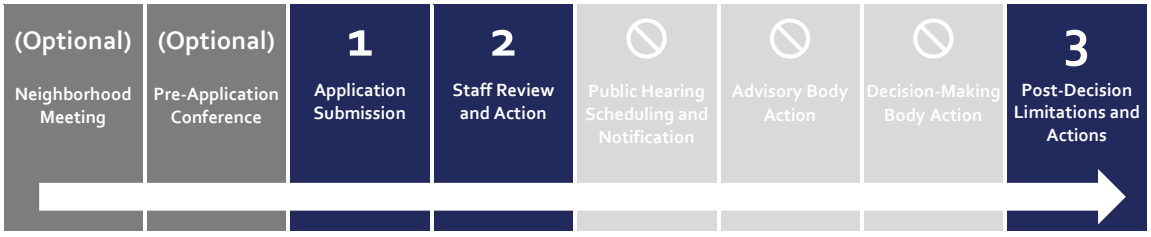
(c) Land disturbing activities of one acre or less.

3. A grading permit shall not be issued until any required erosion and sedimentation control permit has been issued by the North Carolina Department of Environmental Quality.

c. GRADING PERMIT PROCEDURE

Figure 2.5.C(7)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to grading permits. Subsections 1 through 3 below specify the required procedure for a grading permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(7)c: Summary of Grading Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, a grading plan meeting the requirements set forth in the LDSM.

2. Staff Review and Action

The Director of Engineering shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(7)d, Grading Permit Review Standards. The Director of Engineering's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A grading permit shall automatically expire one year after the date it is issued.

d. GRADING PERMIT REVIEW STANDARDS

The Director of Engineering shall approve a grading permit application on finding the following:

(a) The proposed land disturbing activity complies with this Ordinance, including the standards in Section 5.3, Landscaping and Buffer Standards, Section 3.8.D, Floodplain Protection Overlay (FPO) District, Section 3.8.H, River/Stream Overlay (RSO) District, and Section 3.8.I, Watershed Protection Overlay (WPO) District; and

(b) All required erosion and sedimentation control permits associated with the proposed land disturbing activity have been issued by the North Carolina Department of Environmental Quality, as applicable.

(8) EROSION CONTROL PERMIT

a. PURPOSE

The purpose of this section is to establish a uniform mechanism for ensuring that proposed development complies with applicable requirements for controlling erosion and sedimentation.

b. APPLICABILITY

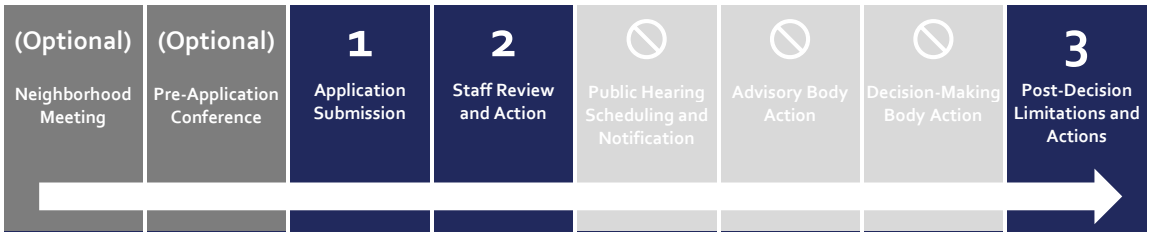
1. Approval of an erosion control permit in accordance with this section is required prior to the approval of any development approval or permit that includes land disturbance activities of less than one acre.

2. Erosion and sedimentation control administration and enforcement for land disturbance activities of one acre or more are under the jurisdiction of the North Carolina Department of Environmental Quality. State standards, requirements, and procedures governing erosion and sedimentation control apply on lands that are subject to this Ordinance.

c. EROSION CONTROL PERMIT PROCEDURE

Figure 2.5.C(8)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to erosion control permits. Subsections 1 through 3 below specify the required procedure for an erosion control permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(8)c: Summary of Erosion Control Permit Procedure



1. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, an erosion control plan meeting the requirements set forth in the LDSM.

2. **Staff Review and Action**

   The Director of Engineering shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(8)d, Erosion Control Permit Review Standards. The Director of Engineering's decision shall be one of the following:

   (a) Approve the application as submitted;

   (b) Approve the application, subject to conditions of approval; or

   (c) Deny the application.

3. **Post-Decision Limitations and Actions**

   The post-decision limitations and actions in Section 2.4.I apply.

d. EROSION CONTROL PERMIT REVIEW STANDARDS

The Director of Engineering shall approve an erosion control permit application on finding the erosion control plan complies with all requirements for erosion control in the LDSM.

(9) FLOODPLAIN DEVELOPMENT PERMIT

a. PURPOSE

The purpose of floodplain development permits is to establish procedures and standards for the review of development located within Special Flood Hazard Areas, to reduce the potential for damage to property and life from flooding or floodwaters.

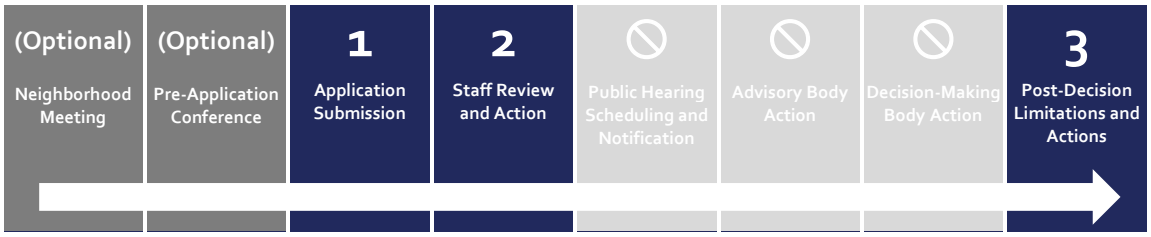
b. APPLICABILITY

Approval of a floodplain development permit in accordance with the procedure and standards in this section is required prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 3.8.D(7), Basis for Establishing the Areas of Special Flood Hazard.

c. FLOODPLAIN DEVELOPMENT PERMIT PROCEDURE

Figure 2.5.C(9)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to floodplain development permits. Subsections 1 through 3 below specify the required procedure for a floodplain development permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(9)c: Summary of Floodplain Development Permit Procedure



1. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, a Flood Prevention Plan meeting the requirements set forth in the LDSM.

2. **Staff Review and Action**

(a) The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(9)d, Floodplain Development Permit Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application, subject to conditions of approval; or
3. Deny the application.

(b) The floodplain development permit shall contain the information listed in Section 3.8.D(15)c.

3. **Post-Decision Limitations and Actions**

   The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections below.

(a) The permit holder shall comply with all certification requirements in Section 3.8.D(16), Certification Requirements.

(b) The Planning Director shall conduct inspections and address violations in accordance with Article 8: Enforcement.

d. FLOODPLAIN DEVELOPMENT PERMIT REVIEW STANDARDS

The Planning Director shall approve a floodplain development permit application on finding that the proposed development complies with the standards in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

(10) STORMWATER MANAGEMENT PERMIT

a. PURPOSE

The purpose of a stormwater management permit is to ensure that any land disturbing activity complies with Section 5.10, Stormwater Management Standards, and with any applicable development approvals and permits.

b. APPLICABILITY

1. Approval of a stormwater management permit in accordance with the procedures and standards in this section is required prior to any land disturbing activity, unless exempted by subsection 2 below.

2. A stormwater management permit is not required for any of the following:

(a) Uses in the Agricultural/Rural use classification (see Section 4.2.C, Classification of Principal Uses), provided such uses shall comply with the standards in , unless exempted by subsection d below;

(b) Development limited to a single-family detached home;

(c) Land disturbing activities of less than 20,000 square feet, unless such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules; and

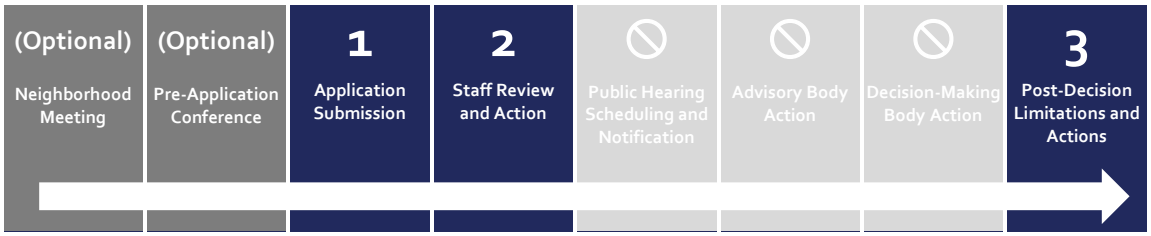
(d) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities).

3. A stormwater management permit shall not be issued until an erosion and sedimentation control permit has been issued by the North Carolina Department of Environmental Quality, if required.

c. STORMWATER MANAGEMENT PERMIT PROCEDURE

Figure 2.5.C(10)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to stormwater management permits. Subsections 1 through 3 below specify the required procedure for a stormwater management permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(10)c: Summary of Stormwater Management Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission, in addition to the provisions in subsections (a) and (b) below.

(a) The application shall include, in addition to all other required application materials, plans detailing how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements in Section 5.10, Stormwater Management Standards. The plans shall meet the applicable requirements of the LDSM.

(b) The Director of Engineering may request a consultation on a concept plan for the post-construction stormwater management system and stormwater drainage plan to be utilized in the proposed development project as set forth in the LDSM.

2. Staff Review and Action

The Director of Engineering shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(2)d, Certificate of Compliance Review Standards. The Director of Engineering's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) and (b) below.

(a) No certificate of compliance shall be issued until the applicant has submitted final as-built plans and the Director of Engineering has conducted a final walk-through inspection, approved all utility inspection videos, and approved the final as-built plans. Where multiple units are served by the stormwater practice or facilities, the Director of Engineering may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

(b) A stormwater management permit shall automatically expire one year after the date it is issued if construction has not commenced.

d. STORMWATER MANAGEMENT PERMIT REVIEW STANDARDS

The Director of Engineering shall approve a stormwater management permit only on finding the following:

(a) The proposed land disturbing activity complies with Section 5.10, Stormwater Management Standards, and with any applicable development approvals and permits; and

(b) All required erosion and sedimentation control permits associated with the proposed land disturbing activity have been issued by the North Carolina Department of Environmental Quality, as applicable.

D. RELIEF

(1) VARIANCE – ZONING

a. PURPOSE

The purpose of a zoning variance is to allow certain deviations from specified standards of this Ordinance when the landowner demonstrates that, owing to special conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

b. APPLICABILITY

1. The zoning variance procedure in this section may be used to vary the following standards:

(a) The standards for maximum height, maximum lot coverage, minimum required yards (setbacks), minimum lot area, and minimum lot width for each zoning district in Article 3: Zoning Districts, other than standards in Section 3.8.I, Watershed Protection Overlay (WPO) District (see Section 2.5.D(2), Variance – Watershed Protection); and

(b) The standards in:

1. Section 3.8.D, Floodplain Protection Overlay (FPO) District;
2. Numerical provisions in Article 5: Development Standards; and
3. Numerical provisions in Article 6: Subdivision Standards.

2. The following variances are not allowed:

(a) An increase in the development density (e.g., units per acre) beyond that allowed in a base zoning district;

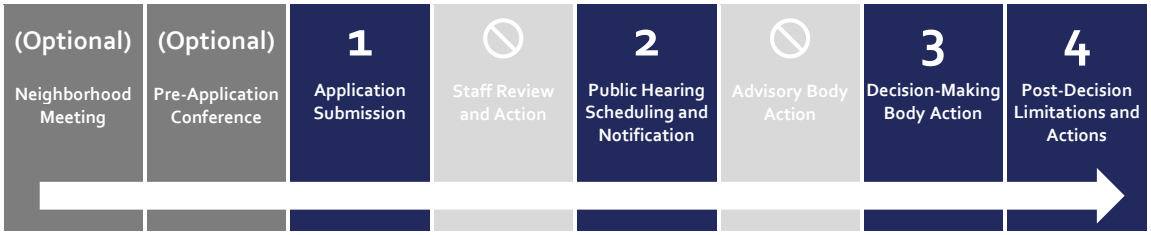
(b) An increase in the number of a particular type of sign beyond that allowed by Section 5.9, Sign Standards; and

(c) Permitting a use not allowed in a zoning district or having the effect of allowing a prohibited use or a prohibited sign.

c. VARIANCE – ZONING PROCEDURE

Figure 2.5.D(1)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to zoning variances. Subsections 1 through 4 below specify the required procedure for a zoning variance, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(1)c: Summary of Variance – Zoning Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

3. Decision-Making Body Action

(a) The Board of Adjustment shall hold a quasi-judicial public hearing on the application and make a decision in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.D(1)d, Variance – Zoning Review Standards. The Board's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(b) Any conditions of approval must be reasonably related to the condition or circumstances that gives rise to the variance.

(c) The concurring vote of four-fifths of the Board shall be necessary to grant a variance in accordance with state law.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) If the Board of Adjustment grants a variance from requirements in Section 3.8.I, Watershed Protection Overlay (WPO) District, the Planning Director shall submit the record of the hearing to North Carolina Environmental Commission for review and action. The record of the hearing shall include, but not be limited to the following:

1. The variance application;
2. The hearing notices;

3. The evidence presented;

4. Motions, offers of proof, or objections to evidence and rulings on them;

5. Findings and exceptions; and

6. The action of the Board of Adjustment, including any conditions proposed.

(c) A variance shall run with the land; however, where a variance is a pre-requisite to another development approval or permit, the variance shall automatically expire and be null and void if the development approval or permit to which the variance was pre-requisite expires or otherwise becomes invalid.

d. VARIANCE – ZONING REVIEW STANDARDS

1. General

Subsections (a) and (b) below apply to all zoning variances except variances of the standards in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

(a) The Board of Adjustment shall grant a variance on finding the applicant demonstrates all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(b) The following factors do no constitute sufficient grounds for approval of a variance:

1. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;

2. Hardships resulting from factors other than application of standards of this Ordinance;

3. The fact that land or a structure may be utilized more profitably or be more marketable with a variance;

4. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts; or

5. Financial hardship.

2. Floodplain Overlay District

The Board of Adjustment shall grant a variance of the standards in Section 3.8.D, Floodplain Protection Overlay (FPO) District, only in accordance with Section 3.8.D(19), Variance Procedures.

3. Stormwater Management Standards

(a) The Board of Adjustment shall grant a variance of the standards in Section 5.10, Stormwater Management Standards, only in accordance with subsection 1 above, or if the Board finds the applicant demonstrates any of the following:

1. There is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing, and the proposed crossing or facility is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of stormwater control stormwater control measures ("SCMs"); or

2. There is a lack of practical alternatives for a stormwater management facility, a stormwater management pond, or a utility, including water, sewer, and gas construction and maintenance corridors, and the proposed facility, pond, or utility is located at least 15 feet landward of all perennial and intermittent surface waters and is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCM's; or

(b) For purposes of subsection (a) above, a lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

(2) VARIANCE – WATERSHED PROTECTION

a. PURPOSE

The purpose and intent of this section is to establish the procedure and standards for variances from the requirements in Section 3.8.I, Watershed Protection Overlay (WPO) District, and to distinguish between the role of the Watershed Review Board and the Planning and Zoning Commission in the review of major and minor variance applications. In addition to its duties as the Planning and Zoning Commission, the Planning and Zoning Commission shall also serve as the Watershed Review Board (see Section 3.8.I(10)).

b. APPLICABILITY

The watershed protection variance in this section may be used to vary the requirements in Section 3.8.I, Watershed Protection Overlay (WPO) District.

c. MINOR AND MAJOR VARIANCE DISTINGUISHED

1. Minor Variance

For the purposes of this section, a minor variance shall include applications seeking to vary any vegetated setback, density, or minimum lot size requirement in the WPO District by:

(a) Up to five percent for high density development; or

(b) Up to ten percent for all other development.

2. Major Variance

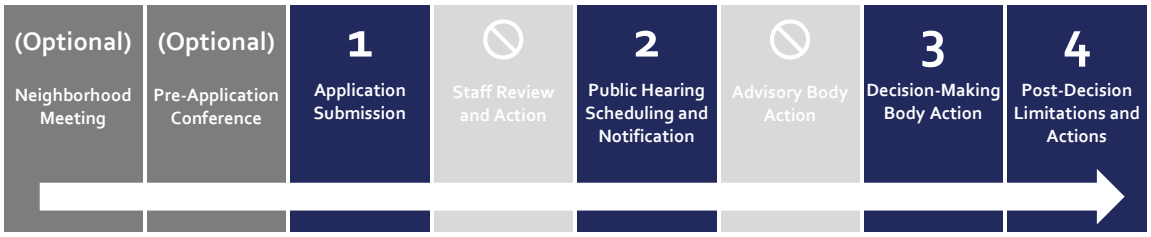
For the purposes of this section, applications seeking to vary minimum lot size or maximum lot coverage by more than the maximum percentages described in subsection (1) above or seeking to vary other standards in the WPO District are major variances. Major variances shall be reviewed by the North Carolina Environmental Management Commission (the "EMC") following receipt of a record of the hearing conducted by the Watershed Review Board on the

application. The EMC shall then prepare a decision that authorizes the Planning and Zoning Commission to issue a final decision on the application.

d. VARIANCE – WATERSHED PROTECTION PROCEDURE

Figure 2.5.D(2)d summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to variances. Subsections 1 through 4 below specify the required procedure for a variance, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(2)d: Summary of Variance – Watershed Protection Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F. In addition, notice shall be mailed by first class mail to all other local governments having watershed regulation jurisdiction within the particular watershed where the variance is requested and to each entity using that water supply for consumption.

3. Decision-Making Body Action

(a) The Planning and Zoning Commission shall hold a quasi-judicial public hearing on the application. If the application is for a minor variance, the Commission shall make a decision in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.D(2)e, Variance – Watershed Protection Review Standards. The Commission's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(b) If the application is for a major variance, following its hearing on the application, the Planning and Zoning Commission shall make a decision in accordance with Section 2.5.D(2)e, Variance – Watershed Protection Review Standards, as to whether or not the Commission is in favor of granting the variance.

1. If the Commission decides in favor of granting the major variance, it shall submit a preliminary record of its hearing on the application to the EMC for review. The record of the hearing shall include but not be limited to: (1) the major variance application; (2) the hearing notices; (3) the evidence presented; (4) motions, offers of proof, and objections to evidence and rulings on them; (5) findings and exceptions; and (6) the action of the Commission, including any conditions proposed. If the EMC approves the major variance or approves the variance with conditions or stipulations added, the EMC will prepare a decision that authorizes the Commission to issue a final decision that includes any conditions or stipulations added by the EMC. After receiving such authorization, the Commission shall issue a final decision approving the major variance, subject to all conditions and stipulations in the EMC's decision. If the EMC

denies the major variance, it shall prepare a decision to be sent to the Commission. After receiving such decision, the Commission shall issue a final decision denying the major variance.

2. If the Commission decides against granting the major variance, that decision shall constitute denial of the application.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) An applicant may appeal a decision by the Planning and Zoning Commission or the EMC on a watershed protection variance application to Superior Court in accordance with state law.

(c) A variance shall run with the land; however, where a variance is a pre-requisite to another development approval or permit, the variance shall automatically expire and be null and void if the development approval or permit to which the variance was pre-requisite expires or otherwise becomes invalid.

e. VARIANCE – WATERSHED PROTECTION REVIEW STANDARDS

The Planning and Zoning Commission shall approve a minor variance, or decide in favor of granting a major variance, on finding the applicant demonstrates all of the following:

1. The variance complies with the standards for approving a zoning variance in Section 2.5.D(1)d.1, General;

2. The variance is in accordance with the general purpose and intent of this Ordinance and Section 3.8.I, Watershed Protection Overlay (WPO) District; and

3. If the variance is granted, the proposed development will ensure equal or better protection of waters of the state than the applicable state and local regulations, and that the stormwater controls will function in perpetuity.

(3) ADMINISTRATIVE ADJUSTMENT

a. PURPOSE

The purpose of administrative adjustments is to allow for administrative approval of minor variations, or adjustments, to certain numerical standards (i.e., setbacks) based on specific standards, with the intent of providing relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by the standards and is compatible with the area and will not be detrimental to public health, safety, or welfare.

b. APPLICABILITY

1. An administrative adjustment may be requested and granted in accordance with the procedures and standards in this section for deviations of up to ten percent from numerical standards identified in Table 2.5.D(3)b: Standards for which Administrative Adjustments Allowed.

TABLE 2.5.D(3)b: Standards for which Administrative Adjustments Allowed [1]

STANDARD	
Minimum Lot Width and/or Depth	Perimeter buffer yard width in Section 5.3.G(3), Buffer Types Defined
Minimum Front Yard Depth	Building yard width in Section 5.3.H(4), Building Yards
Minimum Side Yard Depth	Street yard width in Section 5.3.I(2), Street Yard Landscaping Requirements
Minimum Rear Yard Depth	Section 5.7.D(2), Location of Off-Street Parking

TABLE 2.5.D(3)b: Standards for which Administrative Adjustments Allowed [1]

STANDARD	
Section 5.1.C(8), Driveways	Section 5.7.D(5), Building Façades
Section 5.1.C(9), Vehicle Stacking Spaces and Lanes	Section 5.7.E(3), Façade Articulation
Section 5.2.D(2)h, Large Parking Lots	Section 5.7.F(5), Off-Street Parking Location Standards
Section 5.2.E(2)f, Valet and Tandem Parking	Section 5.7.G(2), Façade Articulation
Section 5.2.F, Bicycle Parking Standards	
NOTES: [1] Administrative adjustments shall be limited to numerical standards in the sections identified in this table.	

2. An administrative adjustment may be requested either as a stand-alone application or in conjunction with other application(s).

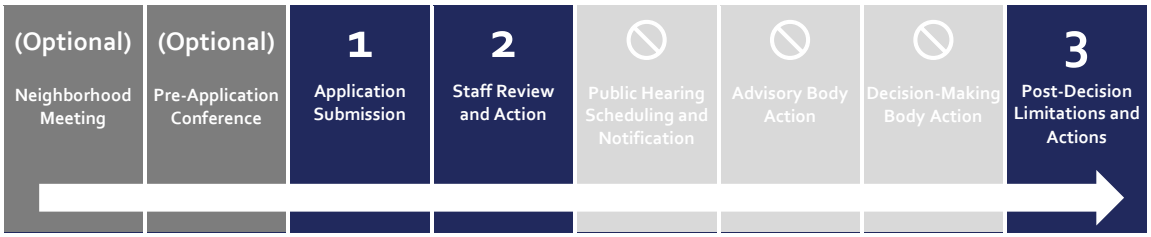
3. If an administrative adjustment application is submitted in conjunction with another application, it shall be reviewed and decided prior to the other application. For example, if an administrative adjustment application is submitted in conjunction with a site plan application (because the administrative adjustment is needed to achieve the plan for development in the site plan), the administrative adjustment application shall be reviewed and decided upon prior to review of the site plan application.

4. This section shall not limit the submission or approval of an alternative parking plan, alternative landscaping or buffer yard, security plan, or other alternative to generally applicable standards authorized by this Ordinance.

C. ADMINISTRATIVE ADJUSTMENT PROCEDURE

Figure 2.5.D(3)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to administrative adjustments. Subsections 1 through 3 below specify the required procedure for an administrative adjustment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(3)c: Summary of Administrative Adjustment Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Staff Review and Action

The Planning Director shall review the application and make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.D(3)d, Administrative Adjustment Review Standards.

3. Post Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Unless otherwise specified in the approval, approval of an administrative adjustment shall automatically expire one year after the date of approval if a building permit for the proposed development is not approved, or if a building permit is not required, if development has not commenced.

d. ADMINISTRATIVE ADJUSTMENT REVIEW STANDARDS

An application for an Administrative Adjustment shall be approved only on a finding the applicant demonstrates the following:

1. The proposed administrative adjustment does not exceed ten percent of a standard identified in Table 2.5.D(3)b: Standards for which Administrative Adjustments Allowed;

2. The proposed administrative adjustment meets at least one of the following requirements:

(a) Is required to compensate for some unusual aspect of the development site;

(b) Supports an objective from the purpose statements of the zoning district where the adjustment is proposed to be located;

(c) Proposes to protect sensitive natural resources, protect water source quality, or manage water source demand; or

(d) Proposes to save healthy existing trees;

3. The proposed administrative adjustment is consistent with the character of development in the surrounding area, and will not result in incompatible uses or development;

4. Any adverse impacts resulting from the proposed administrative adjustment will be mitigated, to the maximum extent practicable; and

5. The proposed administrative adjustment will not substantially interfere with the convenient and enjoyable use and development of adjacent lands, and will not pose a danger to the public health or safety.

(4) APPEAL OF ADMINISTRATIVE DECISION

a. APPLICABILITY

Any person who has standing under N.C.G.S. Section 160D-1402 or the City may appeal a decision made by the Planning Director or Director of Engineering in carrying out a power or duty granted by this Ordinance, including any final and binding order, requirement, or determination, to the Board of Adjustment in accordance with the procedures and standards in this section and state law.

b. APPEAL OF ADMINISTRATIVE DECISION PROCEDURE

Figure 2.5.D(4) summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to appeals of administrative decisions. Subsections 1 through 4 below specify the required procedure for an appeal of an administrative decision, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(4): Summary of Appeal from Administrative Decision Procedure

1. Notice of Appeal

The procedures and requirements in Section 2.4.D, Application Submission, and Section 2.4.E, Staff Review and Action, do not apply to appeals of administrative decisions. Instead, a Notice of Appeal shall be filed and processed in accordance with subsections (a) through (e) below .

(a) The appellant shall file a Notice of Appeal stating the grounds for the appeal with the City Clerk within 30 days of:

1. Receipt of written notice in accordance with Section 2.4.I(1), Notification of Decision; or

2. If the appellant did not receive written notice in accordance with Section 2.4.I(1), Notification of Decision, receipt of actual or constructive notice of the decision.

(b) In the absence of evidence to the contrary, notice given by first-class mail in accordance with subsection (a) above, is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(c) The Planning Director or the Director of Engineering, as applicable, shall transmit all documents and exhibits constituting the record upon which the decision appealed from is taken to the Board of Adjustment, and shall provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(d) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, subject to subsections 1 and 2 below and subsection (e) below.

1. The official who made the decision may certify to the Board of Adjustment, after the Notice of Appeal is filed, that because of the facts stated in an affidavit:

   a. A stay would cause imminent peril to life or property; or

   b. A stay would seriously interfere with enforcement of the ordinance because the violation is transitory in nature.

2. If a certification is made in accordance with subsection 1 above, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court.

(e) If enforcement proceedings are not stayed in accordance with subsection (c) above, the appellant may file with the Planning Director or Director of Engineering, as applicable, a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed.

(f) Decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of applications for development approvals or permits for the property. In such cases, the appellant may request, and the Board may grant, a stay of a final decision of permit applications or building permits affected by the issue being appealed.

2. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

3. Decision-Making Body Action

(a) The Board of Adjustment shall hold a quasi-judicial public hearing and make a decision on the appeal, by vote of a majority of members, not counting vacant positions on the Board or members who are disqualified from voting, in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.D(4)c, Appeal of Administrative Decision Standards. The Board's decision shall be one of the following:

1. Affirm (wholly or partly) the decision appealed from;
2. Modify the decision appealed from; or
3. Reverse the decision appealed from.

(b) In making its decision, the Board of Adjustment shall have all the powers of the official who made the decision and shall make any order, requirement, decision, or determination that ought to be made.

(c) The Board of Adjustment's decision is effective upon filing the written decision with the secretary of the Board.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Any appeal of the Board of Adjustment's decision shall be to Superior Court in accordance with state law.

c. APPEAL OF ADMINISTRATIVE DECISION STANDARDS

The Board of Adjustment shall modify or reverse the decision on appeal only if it finds, based upon competent, material, and substantial evidence in the record, that there has been a clear and demonstrable error, abuse of discretion, or denial of procedural due process in the application of the facts in the record to the applicable standards of this Ordinance, or as otherwise provided by state law.

E. OTHER PROCEDURES

(1) INTERPRETATION

a. PURPOSE

The purpose of the interpretation procedure in this section is to establish a uniform mechanism for rendering formal written interpretations of the text of this Ordinance and the boundaries or classifications on the Zoning Map.

b. APPLICABILITY

1. The procedure and standards in this section are required for the rendering of formal written interpretations of the text of this Ordinance and the boundaries or classifications on the Zoning map.

2. Except as set forth in subsection 2 below, the Planning Director is responsible for making interpretations of all provisions of this Ordinance, including, but not limited to:

(a) Interpretations of the text;

(b) Interpretations of the zoning district boundaries;

(c) Interpretations of whether an unlisted use in Table 4.2.B(5): Principal Use Table, is comparable to a listed use or not, and should be allowed in a zoning district or prohibited in that district; and

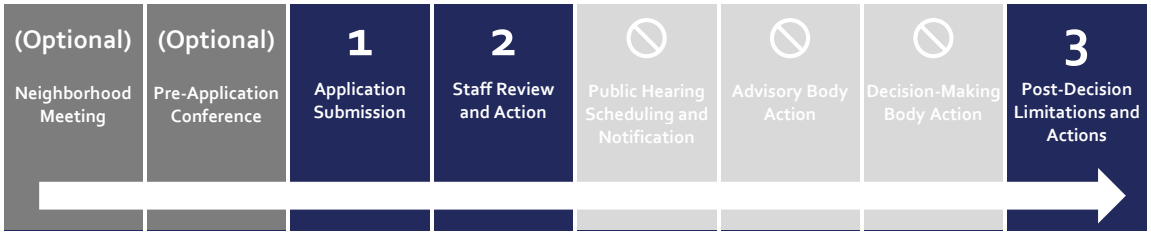
(d) Interpretations of compliance with a condition of approval.

3. The Director of Engineering is responsible for making interpretations of all provisions in Section 5.10, Stormwater Management Standards.

c. INTERPRETATION PROCEDURE

Figure 2.5.E(1)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to interpretations. Subsections 1 through 3 below specify the required procedure for an interpretation, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(1)c: Summary of Interpretation Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, subject to the modifications in subsections 1 and 2 below.

1. An application for an interpretation may be initiated by the City Council, the Planning and Zoning Commission, any resident or landowner in the City, or any person having a contractual interest in land in the City.

2. Applications for interpretations of provisions in Section 5.10, Stormwater Management Standards, shall be submitted to the Director of Engineering, who shall make a determination of completeness and perform other administrative duties pertaining the application in lieu of the Planning Director. All other applications for interpretations shall be submitted to the Planning Director.

2. Staff Review and Action

(a) The Planning Director or the Director of Engineering, as applicable, shall distribute the application, review the application, and make an interpretation, which shall constitute the decision on the application, in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.E(1)d, Interpretation Standards.

(b) Prior to rendering an interpretation, the Planning Director or the Director of Engineering, as applicable, shall consult with the City Attorney and other affected City officials.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A written interpretation shall be binding on subsequent decisions by the Planning Director, Director of Engineering, or other officials in applying the same provision of this Ordinance or the Zoning Map in the same circumstance, unless the interpretation is modified in accordance with this section, or the relevant text of this Ordinance or zoning district boundary is modified.

(c) The Planning Director shall maintain a record of written interpretations that shall be available in the Planning Department during normal business hours.

d. INTERPRETATION STANDARDS

1. Zoning Map Boundaries

Interpretation of zoning district boundaries on the Zoning Map shall be in accordance with the standards in Section 1.7.C, Interpretation of Zoning Map Boundaries.

2. Unspecified Uses

Interpretation of whether an unspecified use is similar to a use identified in Table 4.2.B(5): Principal Use Table, or is prohibited in a zoning district shall be based on Section 4.2.C(8), Interpretation of Unlisted Uses.

3. Text Provisions

Interpretation of the text and its application shall be based on the standards in Section 9.2, General Rules For Interpretation, and the following considerations:

(a) The clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision—as established in Article 10: Definitions, and by the common and accepted usage of the term;

(b) The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption; and

(c) The general purposes served by this Ordinance, as set forth in Section 1.3, General Purpose and Intent, and Section 1.5, Conformance with Adopted Plans.

(2) DENSITY AVERAGING CERTIFICATE

a. PURPOSE

The purpose of a density averaging certificate is to provide a uniform mechanism for allowing the averaging of development intensity over two noncontiguous lots in the Watershed Overlay District in accordance with the requirements in Section 3.8.I(6)a, Density Averaging.

b. APPLICABILITY

1. Except as otherwise provided in subsection 2 below, two noncontiguous lots located within the same watershed and classification (Critical Area, Protected Area, or Balance of Watershed) may be treated in tandem for purposes of determining compliance with Table 3.8.I(8): Maximum Development Intensity, in accordance with the procedure and standards in this section.

2. The following shall not be included in a density averaging certificate:

(a) Publicly held land, including dedicated drainage and open space, parkland, and other land obtained for watershed protection or otherwise protected from development;

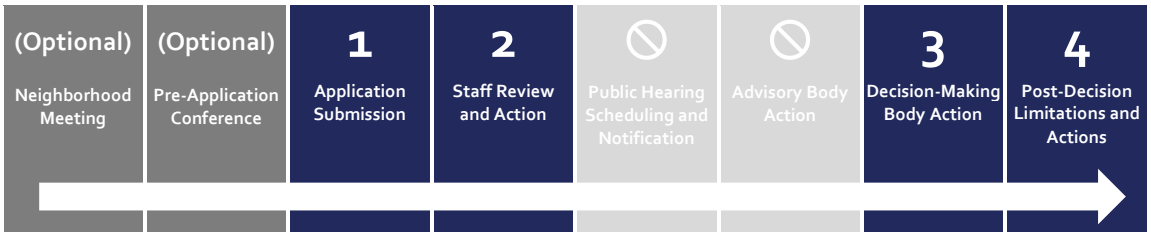
(b) Lots not located within the city's zoning jurisdiction; or

(c) Lots for which a watershed protection variance has been granted or would be required in accordance with Section 2.5.D(2), Variance – Watershed Protection.

c. DENSITY AVERAGING CERTIFICATE PROCEDURE

Figure 2.5.E(2)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to Density Averaging Certificates. Subsections 1 through 4 below specify the required procedure for a Density Averaging Certificate, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(2)c: Summary of Density Averaging Certificate Procedure



1. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D. The application shall include a development plan showing the built-upon area and the protected area and containing all other information required by the LDSM.

2. **Staff Review and Action**

   The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

3. **Decision-Making Body Hearing, Review, and Decision**

   The Planning and Zoning Commission shall review the application and the Planning Director's recommendation and shall make a decision on the application in accordance with Section 2.4.H and Section 2.5.E(2)d, Density Averaging Certificate Review Standards. The Commission's decision shall be one of the following:

   (a) Approve the application as submitted;

   (b) Approve the application subject to conditions of approval; or

   (c) Deny the application.

4. **Post-Decision Limitations and Actions**

   (a) The post-decision limitations and actions in Section 2.4.I apply.

   (b) If the application is approved:

   1. The Density Averaging Certificate shall be issued to the applicant.

   2. The area to remain undeveloped shall be recorded in the deed for the parcel to which it applies. The Density Averaging Certificate shall be recorded in the deed for each of the parcels in the parcel pair. Both the undeveloped area and the Density Averaging Certificate shall be noted on the plat that applies to each parcel.

   3. One copy of the Density Averaging Certificate shall be forwarded to the North Carolina Department of Environmental Quality, along with the approved plan, recorded plats for both parcels, a description of both parcels, and documentation reflecting the development restrictions to the paired parcels.

d. DENSITY AVERAGING CERTIFICATE REVIEW STANDARDS

The Planning and Zoning Commission shall approve a Density Averaging Certificate application only on making written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of Section 3.8.I, Watershed Protection Overlay (WPO) District, including Section 3.8.I(6)a, Density Averaging, and that the proposed agreement assures protection of the public interest.

(3) SPECIAL INTENSITY ALLOCATION

a. PURPOSE

The purpose of this section is to establish a uniform mechanism for allocating allowable increased built upon area within specified watershed districts in accordance with Section 3.8.I(9)b.2, Special Intensity Allocation (SIA).

b. APPLICABILITY

1. Notwithstanding the maximum development intensity set forth in Table 3.8.I(8): Maximum Development Intensity, new nonresidential development in the following districts may be established with up to 70 percent of built-upon area when approved as a Special Intensity Allocation in accordance with the procedure and standards in this section:

(a) Lake Concord WS-IV Protected Area;

(b) Lake Fisher WS-IV Protected Area; and

(c) Kannapolis Lake WS-III Balance of Watershed.

2. The Planning Director shall maintain a record of the total area allocated by Special Intensity Allocations within each district, which shall not exceed the total area eligible for allocation set forth in Table 2.5.E(3)b.2, Maximum Allocation Area.

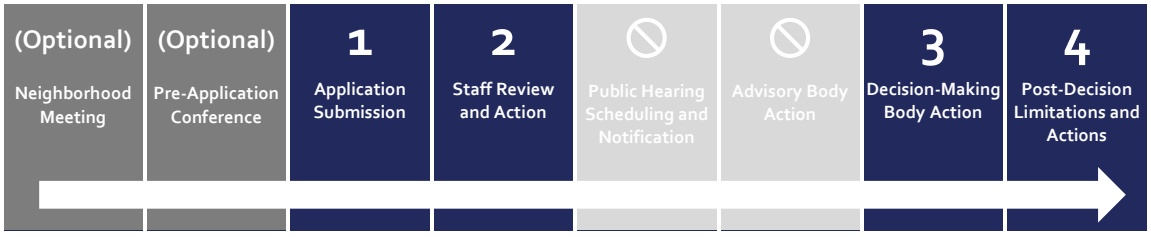
Table 2.5.E(3)b.2: Maximum Allocation Area

DISTRICT	MAXIMUM TOTAL AREA ELIGIBLE FOR ALLOCATION
Lake Concord WS-IV Protected Area	192.90 acres
Lake Fisher WS-IV Protected Area	152.64 acres
Kannapolis Lake WS-III Balance of Watershed	46.70 acres

c. SPECIAL INTENSITY ALLOCATION PROCEDURE

Figure 2.5.E(3)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to Special Intensity Allocations. Subsections 1 through 4 below specify the required procedure for a Special Intensity Allocation, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(3)c: Summary of Special Intensity Allocation Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The application shall include a development plan prepared by a professional engineer and containing all other information required by the LDSM.

2. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

3. Decision-Making Body Hearing, Review, and Decision

The Planning and Zoning Commission shall review the application and the Planning Director's recommendation and shall make a decision on the application in accordance with Section 2.4.H and Section 2.5.E(3)d, Special Intensity Allocation Review Standards. The Commission's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application subject to conditions of approval; or

(c) Deny the application.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A Special Intensity Allocation shall automatically expire if the development approval or permit for the development identified in the Special Intensity Allocation application expires or otherwise becomes invalid. If the Special Intensity Allocation expires, the Planning Director shall deduct the area subject to the expired Allocation from the record of the total area allocated.

d. SPECIAL INTENSITY ALLOCATION REVIEW STANDARDS

The Planning and Zoning Commission shall approve an application for a Special Intensity Allocation on making all of the following determinations:

1. The proposed development complies with the requirements in Section 3.8.I(9)b.2, Special Intensity Allocation (SIA);

2. The proposed Special Intensity Allocation does not exceed the area available for allocation in the watershed district based on Table 2.5.E(3)b.2 above, and the record of the total area allocated by Special Intensity Allocations within each district maintained by the Planning Director;

3. The property subject to the Special Intensity Allocation application is classified within a single base zoning district; and

4. The proposed built-upon area does not exceed the built-upon limitations of the underlying zoning district.

(4) CERTIFICATE OF NONCONFORMITY ADJUSTMENT

a. PURPOSE

The purpose of a certificate of nonconformity adjustment is to allow a new nonconforming use to replace an existing nonconforming use or an expansion of or addition to a nonconforming structure, when certain standards are met.

b. APPLICABILITY

Approval of a certificate of nonconformity adjustment in accordance with the procedure and standards in this section is required prior to any of the following:

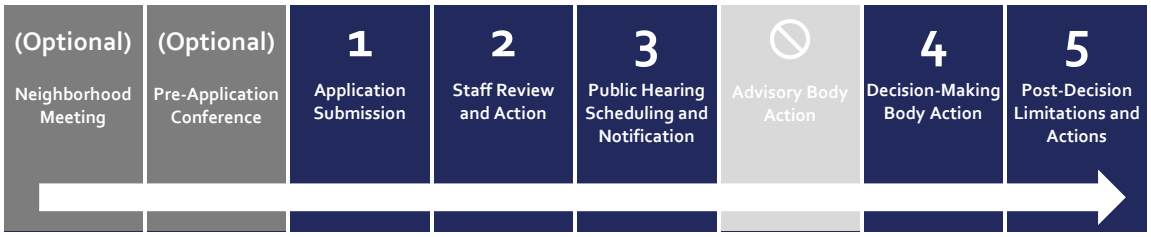
1. A change of use of a structure or land from one nonconforming use to another nonconforming use; or

2. An expansion of or addition to structural parts of a nonconforming structure.

c. CERTIFICATE OF NONCONFORMITY ADJUSTMENT PROCEDURE

Figure 2.5.E(4)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to a certificate of nonconformity adjustment. Subsections 1 through 5 below specify the required procedure for a certificate of nonconformity adjustment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(4)c: Summary of Certificate of Nonconformity Adjustment Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

3. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule a public hearing and provide public notification in accordance with Section 2.4.F.

4. Decision-Making Body Hearing, Review, and Decision

The Board of Adjustment shall hold a hearing on the application and make a decision in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.E(4)d, Certificate of Nonconformity Adjustment Standards The Board's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application subject to conditions of approval; or

(c) Deny the application.

5. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply.

d. CERTIFICATE OF NONCONFORMITY ADJUSTMENT STANDARDS

The Board of Adjustment shall approve a certificate of nonconformity adjustment only on finding the following:

1. The nonconformity as proposed will not:

(a) Create noise above and beyond levels considered normal to the area;

(b) Generate or have the potential to generate a significantly higher volume of traffic than surrounding land use;

(c) Detract from the prevailing property values; or

(d) Detract from the overall aesthetic character of the area;

2. If a change from an existing nonconforming use to another nonconforming use is proposed, the proposed nonconforming use more closely approximates permitted uses in the zoning district where

it is proposed to be located than the existing nonconforming use, with respect to scale and intensity of use; and

3. If an expansion of or addition to structural parts of a nonconforming structure is proposed, the expansion or addition complies with all applicable zoning district dimensional regulations.

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C. Airport Overlay (AO) District 3-39
D. Floodplain Protection Overlay (FPO) District 3-42
E. Manufactured Home Overlay (MHO) District 3-66
F. Thoroughfare Protection Overlay (TPO) District 3-67
G. Neighborhood Protection Overlay District 3-70
H. River/Stream Overlay (RSO) District 3-72
I. Watershed Protection Overlay (WPO) District 3-74

ARTICLE 3. ZONING DISTRICTS

SECTION 3.1. GENERAL PROVISIONS

A. ZONING DISTRICTS ESTABLISHED

This Ordinance establishes the base, planned development, and overlay zoning districts identified in Table 3.1.A: Zoning Districts Established. The boundaries of the zoning districts are identified on the Zoning Map, in accordance with Section 1.7, Zoning Map.

TABLE 3.1.A Zoning Districts Established

District	Section in KDO
Agricultural District	
AG Agricultural District	Section 3.2.A
Residential Districts	
R1 Residential 1 District	Section 3.3.C
R2 Residential 2 District	Section 3.3.D
R4 Residential 4 District	Section 3.3.E
R6 Residential 6 District	Section 3.3.F
R7 Residential 7 District	Section 3.3.G
R8 Residential 8 District	Section 3.3.H
R18 Residential 18 District	Section 3.3.I
Mixed-Use Districts	
MU-N Mixed-Use Neighborhood District	Section 3.4.D
MU-SC Mixed-Use Suburban Corridor District	Section 3.4.G
MU-UC Mixed-Use Urban Corridor District	Section 3.4.F
MU-AC Mixed-Use Activity Center District	Section 3.4.E
TOD Transit-Oriented Development District	Section 3.4.H
CC Center City District	Section 3.4.I
Nonresidential Districts	
O-I Office-Institutional District	Section 3.5.C
GC General Commercial District	Section 3.5.D
LI Light Industrial District	Section 3.5.E
HI Heavy Industrial District	Section 3.5.F
Legacy Districts	
CD Campus Development	Appendix B
CD-R Campus Development Residential	
C-1 Light Commercial and Office	
Planned Development Districts	
PD Planned Development District	Section 3.7.B

TABLE 3.1.A Zoning Districts Established

District	Section in KDO
PD-TND Planned Development – Traditional Neighborhood Development District	Section 3.7.C
PD-C Planned Development – Campus District	Section 3.7.D
Overlay Districts	
AO Airport Overlay District	Section 3.8.C
FPO Flood Plain Overlay District	Section 3.8.D
MHO Manufactured Home Overlay District	Section 3.8.E
TPO Thoroughfare Protection Overlay District	Section 3.8.F
NPO Neighborhood Protection Overlay District	Section 3.8.G
RSO River-Stream Overlay District	Section 3.8.H
WPO Watershed Protection Overlay District	Section 3.8.I

B. ORGANIZATION OF THIS ARTICLE

(1) BASE ZONING DISTRICTS

Sections 3.2 through 3.5 of this article follow a common structure. For each zoning district, the regulations set out the district's purpose and the dimensional and intensity standards applicable in the district, as well as references to other standards in this Ordinance generally applicable to development in the district (see Appendix B for Legacy district standards). An illustration is also provided that demonstrates visually how the district's dimensional standards apply to lots and buildings. The illustrations are intended to show the general character of the district but do not show specific locations or buildings. The main purpose of the graphic is to illustrate the lot and building standards rather than illustrate all standards that may apply. If an illustration is inconsistent with the respective table of lot and building standards, the standards in the table shall govern.

(2) PLANNED DEVELOPMENT DISTRICTS

Planned development districts set forth in Section 3.7 are adopted by the Planning and Zoning Commission or City Council as zoning map amendments in accordance with the procedures and standards in Section 2.5.A(4), Planned Development. Planned development districts are subject to an approved PD Plan and PD Agreement, which establish a plan for development parameters, and specific rules for individual planned development districts. The general purpose of planned development districts, as well as the general requirements for PD Plans and PD Agreements, are set forth in Section 3.7.A, General Provisions. Specific standards for each type of planned development district are laid out in Section 3.7.B through Section 3.7.D.

(3) OVERLAY DISTRICTS

The overlay districts in Section 3.8 establish standards that apply in addition to, or instead of, the standards governing development in the underlying base zoning district or planned development district. If the regulations governing an overlay district expressly conflict with those governing an underlying base zoning district, the regulations governing the overlay district shall control, unless expressly stated to the contrary. If land is classified into multiple overlay districts and the regulations governing one overlay district expressly conflict with those governing another overlay district, the more restrictive regulations shall control.

C. SUPERSEDING DIMENSIONAL AND INTENSITY STANDARDS

Dimensional and intensity standards for each zoning district are in tabular format in this article. Notes within each table provide additional details where necessary. Rules for measuring dimensional standards are in Section 9.3, Rules of Measurement. The dimensional and intensity standards in this article apply generally, but may be superseded by other provisions of this Ordinance (see Section 1.6.A, Conflicts with Other City Codes or Laws), including but not limited to the following:

(1) The minimum lot size, minimum lot width, and required setbacks may be reduced by up to 20 percent in a cluster subdivision that complies with the standards in Section 6.4, Cluster Subdivision Standards.

(2) Section 5.8, Neighborhood Compatibility, establishes height and setback requirements that apply to specific types of uses within a certain proximity to existing single-family residential uses and vacant land in certain residential zoning districts.

(3) Lots housing minor utility facilities as the sole principal use are not subject to the minimum lot size, minimum lot width, setback, or building height standards in this article.

(4) Dimensional standards are established for some uses in Article 4: Use Regulations, which may be more restrictive than the dimensional standards in this article.

(5) Minimum lot widths and setbacks may be reduced based on existing development on the same block face in accordance with Section 9.3.B, Exceptions and Variations.

SECTION 3.2. AGRICULTURAL DISTRICT

A. AGRICULTURAL (AG) DISTRICT

(1) PURPOSE

The Agricultural (AG) District is intended to preserve areas in the City for agricultural, rural, open space, and related uses. The district may also serve as a "holding zone" designed to facilitate orderly growth and development in areas expected to experience increased urbanization over time. The district is characterized by open areas of range land, large planted areas, and natural undisturbed areas that are mostly rural.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

Lot and Density Standards		
	Lot area (min)	43,560 sq ft
	Lot width (min)	200 ft
	Density (max)	1 unit per acre
Setback and Height Standards		
A	Front setback (min)	50 ft
B	Side setback (min) [2]	20 ft
C	Rear setback (min)	30 ft
D	Building height (max)	35 ft

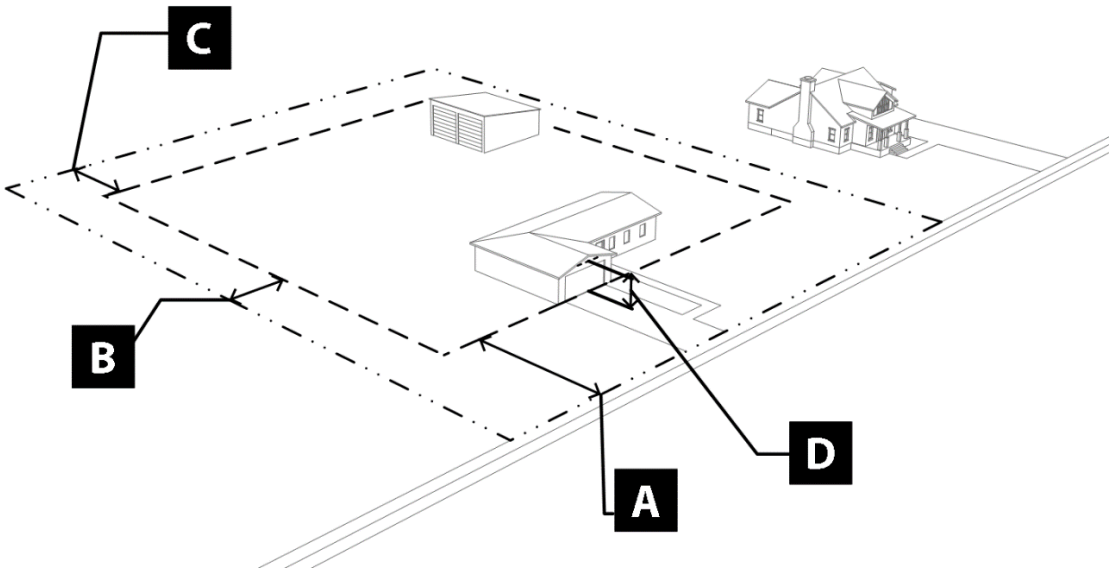
(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



SECTION 3.3. RESIDENTIAL DISTRICTS

A. GENERAL PURPOSE OF RESIDENTIAL DISTRICTS

The general purpose of residential districts is to:

(1) Support the development pattern and character of Kannapolis's established neighborhoods;

(2) Provide a variety of neighborhoods and housing options;

(3) Create and expand complete neighborhoods that integrate transit, employment, retail, and services within convenient walking distances to homes;

(4) Encourage well-planned and appropriately scaled infill and redevelopment that is generally compatible with development in the surrounding area;

(5) Allow for human-scale, neighborhood-serving commercial and employment uses; and

(6) Ensure the requirements of this Ordinance are in accordance with the comprehensive plan.

B. ESTABLISHED RESIDENTIAL DISTRICTS

The residential districts established by this Ordinance are identified in Table 3.3.B: Established Residential Districts.

TABLE 3.3.B: Established Residential Districts

R1 Residential 1 District
R2 Residential 2 District
R4 Residential 4 District
R6 Residential 6 District
R7 Residential 7 District
R8 Residential 8 District
R18 Residential 18 District

C. RESIDENTIAL 1 (R1) DISTRICT

(1) PURPOSE

The purpose of the Residential 1 (R1) District is to provide lands for large-lot suburban neighborhoods that accommodate single family detached homes at a maximum density of one unit per acre. The district supports a low-density residential environment and may include compatible public, civic, and institutional uses.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

Lot and Density Standards [1]		
	Lot area (min)	43,560 sq ft
	Lot width (min)	150 ft
	Density (max)	1 unit per acre
Setback and Height Standards		
A	Front setback (min)	45 ft
B	Side setback (min) [2]	20 ft
C	Rear setback (min)	30 ft
D	Building height (max)	35 ft

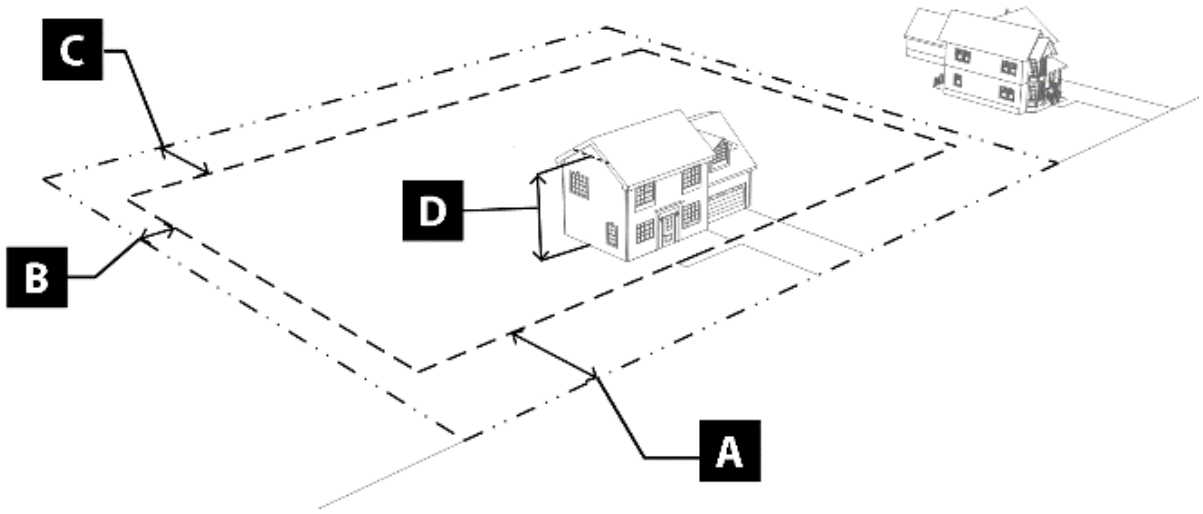
(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



D. RESIDENTIAL 2 (R2) DISTRICT

(1) PURPOSE

The purpose of the Residential 2 (R2) District is to provide lands for medium- and large-lot suburban neighborhoods that accommodate single family detached homes at a maximum density of two units per acre. The district is intended to support a low-density residential environment and may include compatible public, civic, and institutional uses.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density Standards	
	Lot area (min)	None
	Lot width (min)	100 ft
	Density (max)	2 units per acre
	Setback and Height Standards	
A	Front setback (min)	35 ft
B	Side setback (min) [2]	15 ft
C	Rear setback (min)	30 ft
D	Building height (max)	35 ft

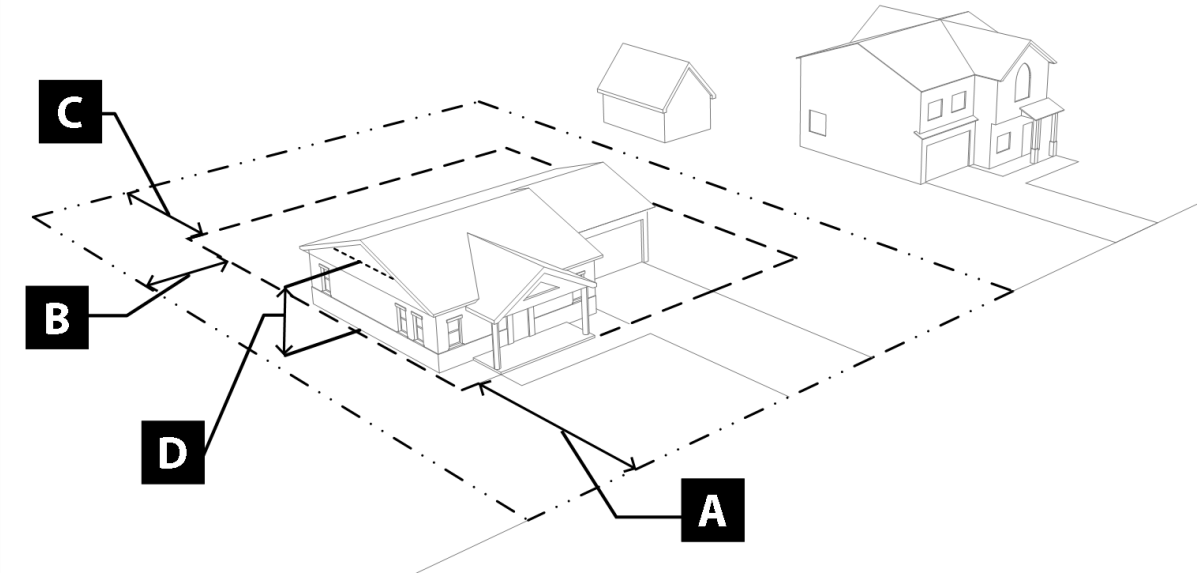
(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



E. RESIDENTIAL 4 (R4) DISTRICT

(1) PURPOSE

The purpose of the Residential 4 (R4) District is to provide lands for medium-lot suburban neighborhoods that accommodate single family detached homes at a maximum density of four units per acre. The district is intended to support a low-to medium-density residential environment and may include compatible public, civic, and institutional uses.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density Standards	
	Lot area (min)	None
	Lot width (min)	75 ft
	Density (max)	4 units per acre
	Setback and Height Standards	
A	Front setback (min)	25 ft
B	Side setback (min) [2]	10 ft
C	Rear setback (min)	25 ft
D	Building height (max)	35 ft

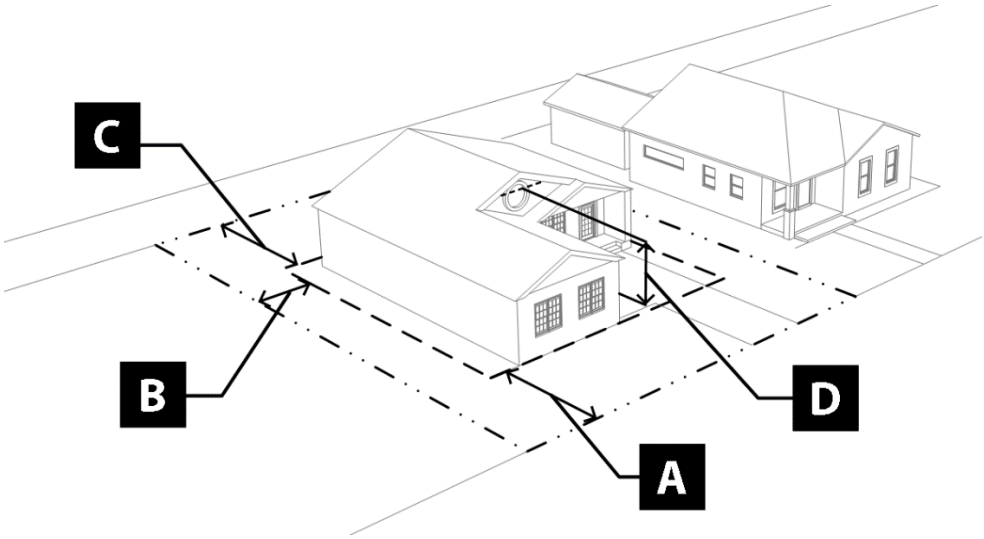
(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



F. RESIDENTIAL 6 (R6) DISTRICT

(1) PURPOSE

The purpose of the Residential 6 (R6) District is to provide lands for medium- to small-lot neighborhoods that accommodate single family detached, duplex, and triplex dwellings at a maximum density of six units per acre. The district is intended to promote a medium-density residential environment and may include compatible public, civic, and institutional uses.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density Standards	
	Lot area (min)	None
	Lot width (min) [2]	90 ft / 60 ft / 24 ft
	Density (max)	6 units per acre
	Setback and Height Standards	
A	Front setback (min)	15 ft
B	Side setback (min) [3]	5 ft
C	Rear setback (min)	25 ft
D	Building height (max)	35 ft

(3) OTHER STANDARDS

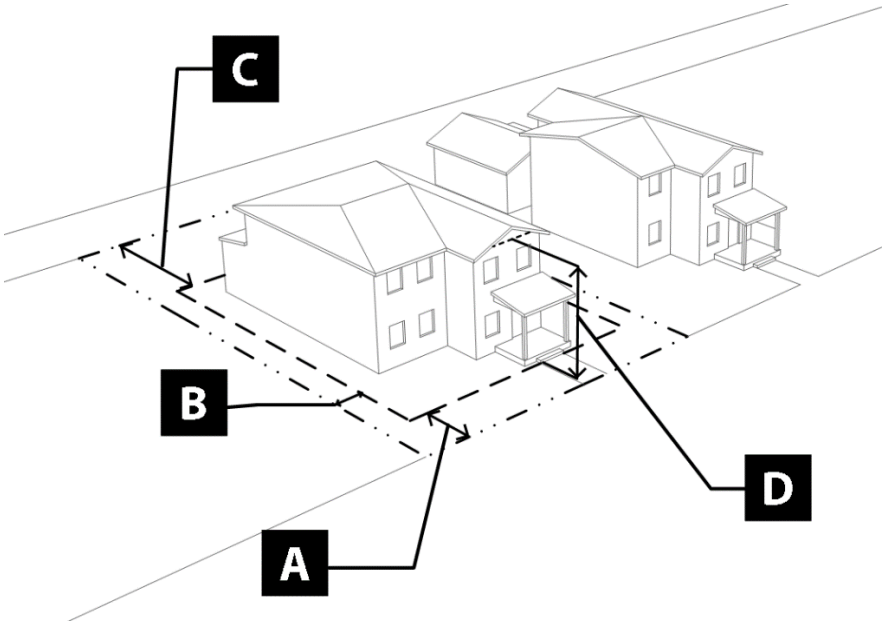
Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] Minimum lot width of 90 feet applies to any lot containing a duplex or triplex. Minimum lot width of 24 feet applies to any lot containing a single unit of a single-family attached dwelling. Minimum lot width of 60 feet applies in all other cases.

[3] There is no minimum side setback from an abutting lot containing a unit that is part of the same duplex or triplex. The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



G. RESIDENTIAL 7 (R7) DISTRICT

(1) PURPOSE

The purpose of the Residential 7 (R7) District is to provide lands for small-lot neighborhoods that accommodate single family detached, duplex, and triplex dwellings at a maximum density of seven units per acre. The district is intended to promote a medium-density residential environment and may include compatible public, civic, and institutional uses.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

Lot and Density Standards		
	Lot area (min)	None
	Lot width (min) [2]	90 ft / 60 ft / 52 ft / 24 ft
	Density (max)	7 units per acre
Setback and Height Standards		
A	Front setback (min)	10 ft
B	Side setback (min) [3]	5 ft
C	Rear setback (min)	20 ft
D	Building height (max)	35 ft

(3) OTHER STANDARDS

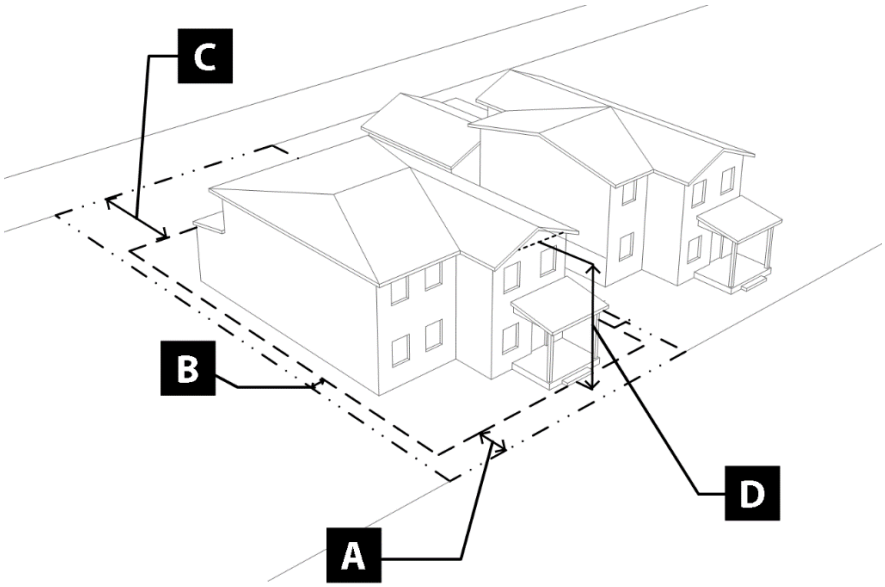
Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] Minimum lot width of 90 feet applies to any lot containing a duplex or triplex. Minimum lot width of 52 feet applies to any lot having vehicular access only from an alley. Minimum lot width of 24 feet applies to any lot containing a single unit of a single-family attached dwelling or townhouse. Minimum lot width of 60 feet applies in all other cases.

[3] There is no minimum side setback from an abutting lot containing a unit that is part of the same duplex or triplex. The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



H. RESIDENTIAL 8 (R8) DISTRICT

(1) PURPOSE

The purpose of the Residential 8 (R8) District is to provide lands for neighborhoods that accommodate a mix of single family detached, duplex, and triplex dwellings; townhouses; and small-scale multifamily developments at a maximum density of eight units per acre. The district is intended to support a medium-density residential environment and incorporate some context-sensitive neighborhood-oriented commercial, office, live-work, employment, community, and educational development.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min) [2]	90 ft / 60 ft / 52 ft / 18 ft
	Density (max)	8 units per acre
	Impervious surface ratio (max)	0.5
	Setback and Height Standards	
A	Front setback (min)	10 ft
B	Side setback (min) [3]	5 ft
C	Rear setback (min)	5 ft
D	Building height (max)	35 ft

(3) OTHER STANDARDS

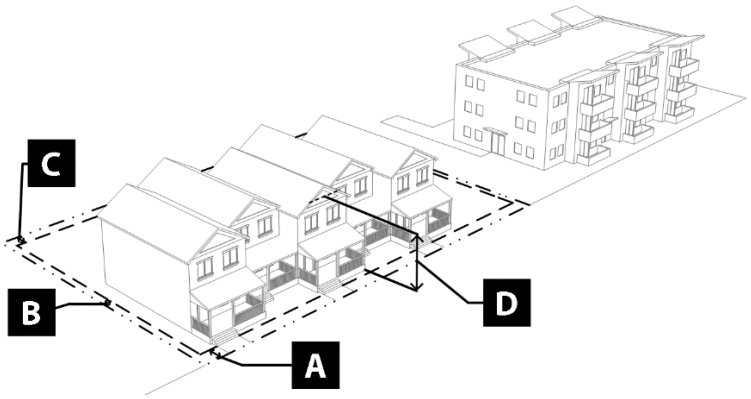
Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] Minimum lot width of 90 feet applies to any lot containing a duplex or triplex. Minimum lot width of 52 feet applies to any lot having vehicular access only from an alley. Minimum lot width of 18 feet applies to any lot containing a single unit of a single-family attached dwelling or townhouse. Minimum lot width of 60 feet applies in all other cases.

[3] There is no minimum side setback from an abutting lot containing a unit that is part of the same duplex, triplex, or townhouse dwelling. The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



I. RESIDENTIAL 18 (R18) DISTRICT

(1) PURPOSE

The purpose of the Residential 18 (R18) District is to provide lands for primarily residential neighborhoods that include a variety of residential uses, including duplexes, triplexes, townhouses, and multifamily development at a maximum density of 18 units per acre. The district is intended to support a high-density residential environment and incorporate limited context-sensitive neighborhood-oriented commercial, office, live-work, employment, office, live-work, community, and educational activities.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min) [2]	90 ft / 60 ft / 48 ft / 18 ft
	Density (max)	18 units per acre
	Impervious surface ratio (max)	0.5
	Setback and Height Standards	
A	Front setback (min)	10 ft
B	Side setback (min) [3]	5 ft
C	Rear setback (min)	5 ft
D	Building height (max)	48 ft

(3) OTHER STANDARDS

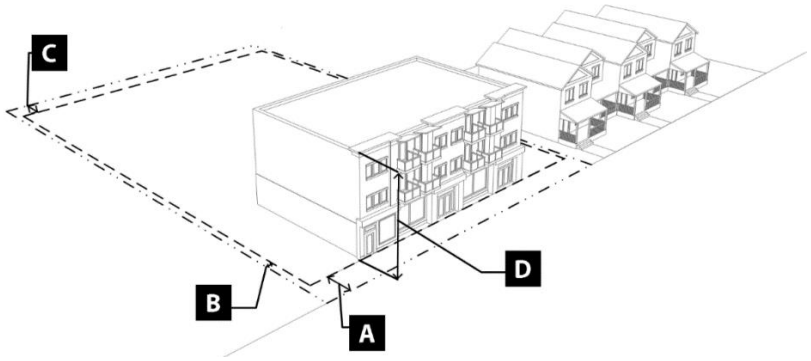
Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] Minimum lot width of 90 feet applies to any lot containing a duplex or triplex. Minimum lot width of 48 feet applies to any lot having vehicular access only from an alley. Minimum lot width of 18 feet applies to any lot containing a single unit of a single-family attached dwelling or townhouse. Minimum lot width of 60 feet applies in all other cases.

[3] There is no minimum side setback from an abutting lot containing a unit that is part of the same duplex, triplex, or townhouse dwelling. The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



SECTION 3.4. MIXED-USE DISTRICTS

A. GENERAL PURPOSE OF THE MIXED-USE DISTRICTS

The general purpose of the mixed-use districts is to:

(1) Provide centers of commerce, employment, and entertainment for residents and visitors;

(2) Support mixed-use development and walkable urbanism, where business, office, retail, and residential development is designed and integrated in compatible ways;

(3) Support development that is scaled to local, community, and regional needs;

(4) Expand transportation options to support multiple modes of transportation; and

(5) Encourage high-quality design of the built environment and public spaces.

B. ESTABLISHED MIXED-USE, COMMERCIAL, AND INDUSTRIAL DISTRICTS

The mixed-use districts established by this Ordinance are identified in Table 3.4.I: Established Mixed-use Districts.

TABLE 3.4.I: Established Mixed-use Districts

MU-N Mixed-Use Neighborhood District
MU-SC Mixed-Use Suburban Corridor District
MU-UC Mixed-Use Urban Corridor District
MU-AC Mixed-Use Activity Center District
TOD Transit-Oriented Development District
CC Center City District

C. MIXED-USE DISTRICT DESIGN STANDARDS

In addition to the standards in Sections 3.4.D through 3.4.I below, and the standards in Section 5.7, Form and Design Standards, the following design standards shall apply to development in MU-N, MU-SC, MU-UC, MU-AC, TOD, and CC districts.

(1) BUILDING FORM

Buildings shall face the street and shall be configured in relation to the street and adjacent buildings so that building walls frame and enclose one or more of the following, where appropriate:

a. The length of sidewalks and streets;

b. The corners of street intersections or entry points into the development;

c. Public spaces or other public and site amenities; and

d. A plaza, square, outdoor dining area, or other outdoor gathering place.

(2) BUILDING FAÇADE

a. GROUND FLOOR

The first floors of all buildings shall be designed to support pedestrian-scale activity by use of transparent windows and doors. Each ground floor building façade that faces a public or private street, a pedestrian way, or an open space set-aside shall be composed of a minimum amount of

transparent windows and/or doors required by Table 3.4.C(2): Minimum Ground Floor Transparency, unless the ground floor is occupied by a residential use.

Table 3.4.C(2): Minimum Ground Floor Transparency

District	Minimum Percentage of Ground Floor Façade Length Composed of Transparent Materials [1]
MU-N	35
MU-SC	35
MU-UC	40
MU-AC	45
TOD	50
CC	50

NOTES:

[1] Applies to ground floor building façade having frontage on a public or private street, a pedestrian way, or an open space set-aside.

b. UPPER FLOOR WINDOWS

All upper floor windows shall be recessed, with the glass a minimum of two inches back from the surrounding façade surface material or adjacent trim.

c. SILLS, BELT COURSES, EAVES, CORNICES, AND ORNAMENTAL FEATURES

Sills, belt courses, eaves, cornices, and ornamental features may project from the building facade no more than two feet and may extend over a public or private sidewalk, shared use path, amenity zone, or planting strip, provided they shall maintain a minimum vertical clearance of 12 feet over the public right-of-way.

(3) BALCONIES

Balconies are encouraged but not required in upper-story residential units.

(4) CANOPIES AND AWNINGS

Canopies, awnings, and similar appurtenances are subject to Section 9.3.B(5), Allowable Encroachments into Required Yards or Rights-of-Way.

(5) BUILDING ENTRANCES

Where the façade of a principal building abuts a street or other public space, at least one operable pedestrian entrance providing both ingress and egress shall be provided. The required pedestrian entrance shall open directly to the sidewalk without requiring pedestrians to pass through a garage, parking lot, or other non-pedestrian area between the entrance and the street. All primary pedestrian entrances shall be clearly defined and emphasized using changes in the wall plane or façade material, pilasters, awnings, canopies, porches, or other architectural elements. The principal building entrance shall not open onto a parking lot.

(6) PARKING STRUCTURES

Parking structures shall be wrapped with a non-parking use allowed in the district in which the structure is located, along a minimum of 75 percent of the street level first floor. Where the street-level facade of a parking structure abuts or faces a street frontage, the facade shall be articulated through use of at least three of the following features:

a. Windows or window-shaped openings;

b. Masonry columns;

c. Decorative wall insets or projections;

d. Awnings;

e. Changes in color or texture of exterior materials;

f. Integrated vegetation (hanging or along trellises); or

g. Other similar features approved by the Planning Director.

(7) PARKING LOCATION

a. All new surface vehicle parking areas in the MU-N, MU-SC, and MU-UC districts shall be located to the side or rear of the development's principal building(s).

b. All new surface vehicle parking areas in the MU-AC, CC, and TOD districts shall be located to the rear of the development's principal building.

(8) CONNECTIVITY

a. Walkways shall be provided which connect building entrances and streets adjoining the site.

b. Development shall be designed to allow pedestrian and bicycle cross-access between the site and adjacent parcels, to the extent practicable. The Planning Director may waive or modify this requirement on determining that such cross-access is impractical due to site constraints. Easements allowing cross-access between adjoining parcels of land, along with maintenance agreements shall be recorded in the appropriate land records.

(9) MID-BLOCK ALLEY

Where included on the Thoroughfare Plan, a mid-block alley shall be dedicated and improved in accordance with the LDSM.

(10) SIDEWALKS, STREET TREES, AND CURB AND GUTTER

a. Curb, gutter, sidewalks, and tree grates or a planting area between the street and the sidewalk shall be provided on both sides of the street in accordance with Table 3.4.C(10): Minimum Sidewalk Width, subject to subsection b below, Section 5.1.C(2), Sidewalks and Other Pedestrian Facilities, and Section 5.1.C(4), Public Streets.

Table 3.4.C(10): Minimum Sidewalk Width

District	Minimum Sidewalk Width
MU-N	6
MU-SC	6
MU-UC	7
MU-AC	10
TOD	10
CC	10

b. In the MU-N, MU-SC, and MU-UC districts, a sidewalk planting strip at least six feet wide between the sidewalk and the curb shall be provided, with street trees planted a maximum average of 40 feet on center along the length of the planting strip.

c. In the MU-AC, TOD, and CC districts, a minimum 6-foot deep by 8-foot wide street tree planting area, or other planting area providing comparable soil volume and water infiltration, between the sidewalk and the curb shall be provided for the location of street trees, every 40-50 feet on center, with street trees planted a maximum average of 40 feet on center along the length of the sidewalk.

D. MIXED-USE NEIGHBORHOOD DISTRICT

(1) PURPOSE

The purpose of the Mixed-Use Neighborhood (MU-N) District is to provide lands for a mix of neighborhood-serving retail, service, office, and public, civic, and institutional uses, as well as residential uses including low-rise and mid-rise multifamily dwellings, townhouse dwellings, duplexes, and triplexes. Development should be walkable, have an active streetscape, and be compatible in form and scale with surrounding residential uses. The mixing of residential uses with nonresidential uses within a building, with residential development on upper floors, is encouraged. The horizontal mixing of stand-alone residential developments and adjacent stand-alone nonresidential or mixed-use developments in the zone is also encouraged, provided the developments are well-integrated in terms of complementary uses, access and circulation, and compatible design.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min)	50 ft
	Density (max)	16 units per acre
	Impervious surface ratio (max)	0.70
	Setback, Height, and Floor Area Standards	
A	Front build-to zone (min | max) [2]	5 | 25 ft
	Percentage of build-to zone width occupied by building (min) [3]	60%
B	Side setback (min) [4]	None
C	Rear setback (min)	10 ft
D	Building height (max)	50 ft
	Gross floor area per building (max)	12,000 sf

(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

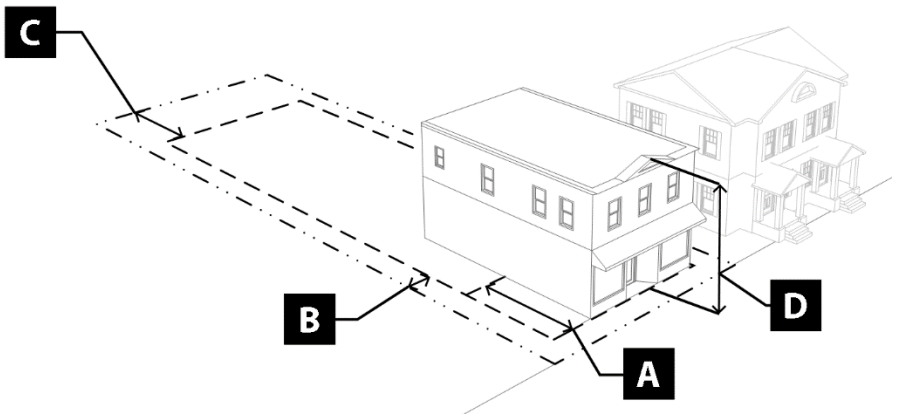
NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The area between the minimum and maximum build-to zone boundaries that extends the width of the lot constitutes the build-to zone. The maximum build-to zone boundary may be increased by 15 feet along 25 percent of the lot width for a civic space or outdoor dining area.

[3] Buildings shall be located so that they occupy the minimum percentage of the linear width of the lot's build-to zone (see Section 9.3.A(6)).

[4] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



E. MIXED-USE SUBURBAN CORRIDOR DISTRICT

(1) PURPOSE

The purpose of the Mixed-Use Suburban Corridor (MU-SC) District is to provide lands on major commercial corridors for a mix of commercial, office, institutional, and multifamily residential uses. This district includes more large-format retail and auto-oriented forms than the MU-UC district. New development in the MU-SC district is intended to support automobile-oriented building forms and parking locations as well as development patterns that support multiple modes of mobility. The horizontal mixing of stand-alone residential developments and adjacent stand-alone nonresidential or mixed-use developments in the zone is encouraged, provided the developments are well-integrated in terms of complementary uses, access and circulation, and compatible design.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min)	50 ft
	Density (max)	12 units per acre
	Impervious surface ratio (max)	0.80
	Setback and Height Standards	
A	Front build-to zone (min | max) [2]	0 | 25 ft
	Percentage of build-to zone width occupied by building (min) [3]	60%
B	Side setback (min)	5 ft
C	Rear setback (min) [4]	None | 10 ft
D	Building height (max)	50 ft

(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

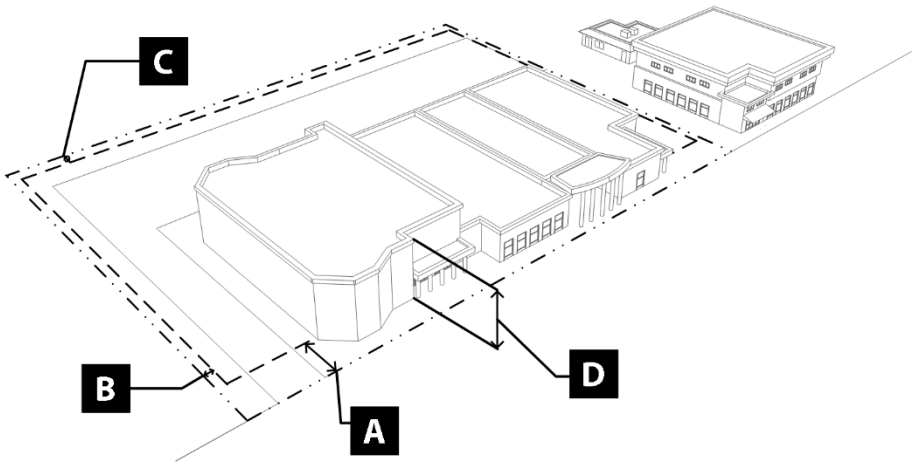
NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The area between the minimum and maximum build-to zone boundaries that extends the width of the lot constitutes the build-to zone. The maximum build-to zone boundary may be increased by 15 feet along 25 percent of the lot width for a civic space or outdoor dining area.

[3] Buildings shall be located so that they occupy the minimum percentage of the linear width of the lot's build-to zone (see Section 9.3.A(6)).

[4] The minimum rear setback is 10 feet, except there is no minimum rear setback where the rear lot line abuts an alley.



F. MIXED-USE URBAN CORRIDOR DISTRICT

(1) PURPOSE

The purpose of the Mixed-Use Urban Corridor (MU-UC) District is to provide lands on existing urban corridors for walkable development patterns with active streetscapes. The district includes places to live, work, and shop and allows a mix of community-serving retail and office uses, civic uses, and townhouse and multifamily residential uses. The mixing of residential uses with nonresidential uses within a building, with residential development on upper floors, is encouraged.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min)	45 ft
	Density (max)	None
	Impervious surface ratio (max)	0.80
	Setback and Height Standards	
A	Front build-to zone (min | max) [2]	0 | 25 ft
	Percentage of build-to zone width occupied by building (min) [3]	70%
B	Side setback (min)	None
C	Rear setback (min) [4]	None | 10 ft
D	Building height (max)	60 ft

(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

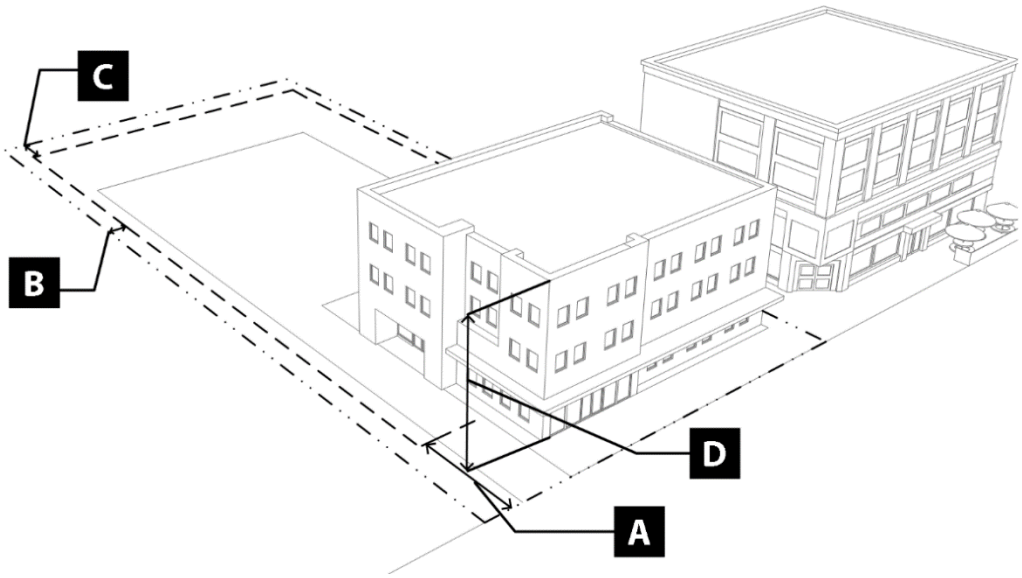
NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The area between the minimum and maximum build-to zone boundaries that extends the width of the lot constitutes the build-to zone. The maximum build-to zone boundary may be increased by 15 feet along 25 percent of the lot width for a civic space or outdoor dining area.

[3] Buildings shall be located so that they occupy the minimum percentage of the linear width of the lot's build-to zone (see Section 9.3.A(6)).

[4] The minimum rear setback is 10 feet, except there is no minimum rear setback where the rear lot line abuts an alley.



G. MIXED-USE ACTIVITY CENTER DISTRICT

(1) PURPOSE

The purpose of the Mixed-Use Activity Center (MU-AC) District is to provide lands for walkable, transit-oriented, mixed-use centers that feature high quality building design and active streetscapes within a "main street" style environment. The district allows a mix of office, retail, entertainment, and civic uses that serve neighborhood or community-wide needs. The vertical mixing of residential uses with nonresidential uses within a single project or building, with residential development on upper floors, is strongly encouraged. The horizontal mixing of stand-alone residential developments and adjacent stand-alone nonresidential or mixed-use developments in the zone is also encouraged, provided the developments are well-integrated in terms of complementary uses, access and circulation, and compatible design.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min)	40 ft
	Density (max)	None
	Impervious surface ratio (max)	0.80
	Setback and Height Standards	
A	Front build-to zone (min | max) [2]	0 | 15 ft
	Percentage of build-to zone width occupied by building (min) [3]	75%
B	Side setback (min)	None
C	Rear setback (min) [4]	None | 10 ft
D	Building height (max)	70 ft

(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

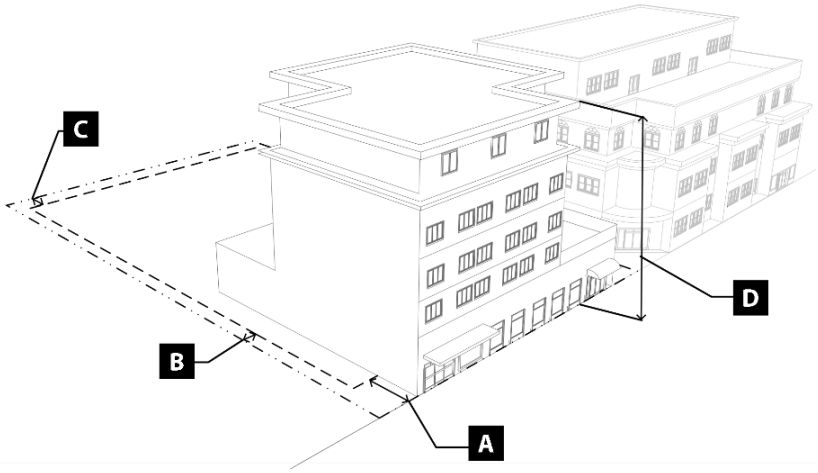
NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The area between the minimum and maximum build-to zone boundaries that extends the width of the lot constitutes the build-to zone. The maximum build-to zone boundary may be increased by 15 feet along 25 percent of the lot width for a civic space or outdoor dining area.

[3] Buildings shall be located so that they occupy the minimum percentage of the linear width of the lot's build-to zone (see Section 9.3.A(6)).

[4] The minimum rear setback is 10 feet, except there is no minimum rear setback where the rear lot line abuts an alley.



H. TRANSIT-ORIENTED DEVELOPMENT

(1) PURPOSE

The purpose of the Transit-Oriented Development (TOD) District is to provide lands for walkable, transit-oriented, mixed-use development that features high quality building design and materials and supports active streetscapes. TOD development should include densities and use mixes that fully support non-auto-dependent lifestyles. The vertical mixing of residential uses with nonresidential uses within a single project or building, with residential development on upper floors, is strongly encouraged.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min)	40 ft
	Density (max)	See Section 3.4.H(5)
	Floor Area Ratio (max)	
	Impervious surface ratio (max)	0.95
	Setback and Height Standards	
A	Front build-to zone (min | max) [2]	0 | 15 ft
	Percentage of build-to zone width occupied by building (min) [3]	75%
B	Side setback (min)	None
C	Rear setback (min) [4]	None | 10 ft
D	Building height (min | max)	25 ft | 82 ft

(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

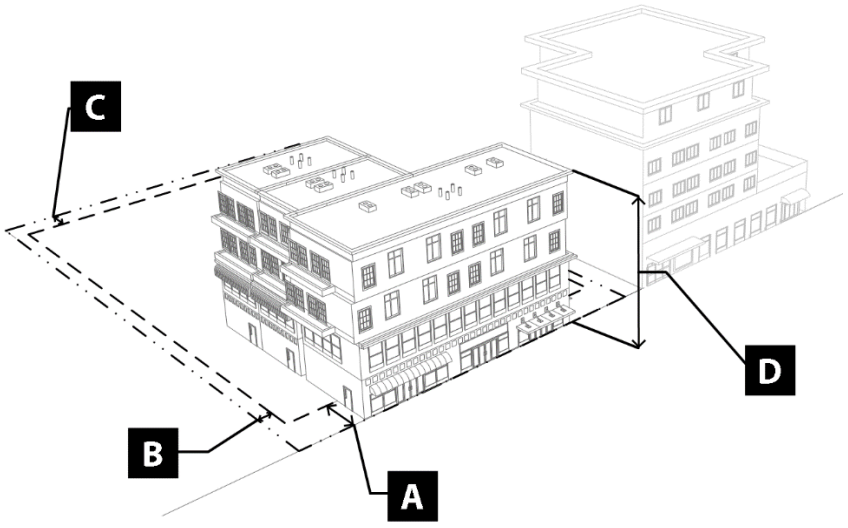
NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The area between the minimum and maximum build-to zone boundaries that extends the width of the lot constitutes the build-to zone. The maximum build-to zone boundary may be increased by 15 feet along 25 percent of the lot width for a civic space or outdoor dining area.

[3] Buildings shall be located so that they occupy the minimum percentage of the linear width of the lot's build-to zone (see Section 9.3.A(6)).

[4] The minimum rear setback is 10 feet, except there is no minimum rear setback where the rear lot line abuts an alley.



(4) SUBDISTRICTS

Lands within a TOD District shall be classified in one of the following subdistricts:

a. The Transit-Oriented Development – Core (TOD-C) subdistrict generally applies to lands within one-quarter of a mile of a transit station.

b. The Transit-Oriented Development – Edge (TOD-E) subdistrict generally applies to lands between one-quarter of a mile and one-half of a mile from a transit station. No land area shall be classifed in the TOD-E subdistrict unless it adjoins land area classified in the TOD-C subdistrict.

(5) FLOOR AREA AND DENSITY

The floor area ratio and density within the TOD-C and TOD-E subdistricts shall not be less than that set forth in Table 3.4.H(5).

Table 3.4.H(5): Density and Floor Area Ratio Standards

Subdistrict	Density (residential units per acre)		Floor Area Ratio (nonresidential uses)	
	Minimum	Maximum	Minimum	Maximum
TOD-C	16	50	0.5	3.0
TOD-E	12	36	0.3	2.0

(6) PARKING STANDARDS

a. MINIMUM NUMBER

Notwithstanding the minimum parking standards established for the TOD district by Section 5.2.E, Off-street Vehicular Parking Space Standards, there shall be no minimum number of parking spaces required on any site or portion of a site within the TOD district that is located within 500 feet of a high capacity transit station.

b. MAXIMUM NUMBER

Within the TOD district, the maximum number of parking spaces for each use allowed in the district is established by Section 5.2.E, Off-street Vehicular Parking Space Standards.

I. CENTER CITY DISTRICT

(1) PURPOSE

The purpose of the Center City (CC) District is to serve as the focal point for commerce, government, entertainment, and cultural events in Kannapolis. Development in the district is pedestrian oriented and includes a mix of downtown retail, service, office, light Industrial, and residential uses in the existing central business district. The district is intended to be walkable, support multiple modes of mobility, have an active streetscape, and feature high quality design and building materials.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Density/Intensity Standards	
	Lot area (min)	None
	Lot width (min)	20 ft [2]
	Density (max)	None
	Impervious surface ratio (max)	0.95
	Setback and Height Standards	
A	Front build-to zone (min | max) [3]	0 | 15 ft
	Percentage of build-to zone width occupied by building (min) [4]	75%
B	Side setback (min)	None
C	Rear setback (min) [5]	None | 10 ft
D	Building height (max)	72 ft

(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

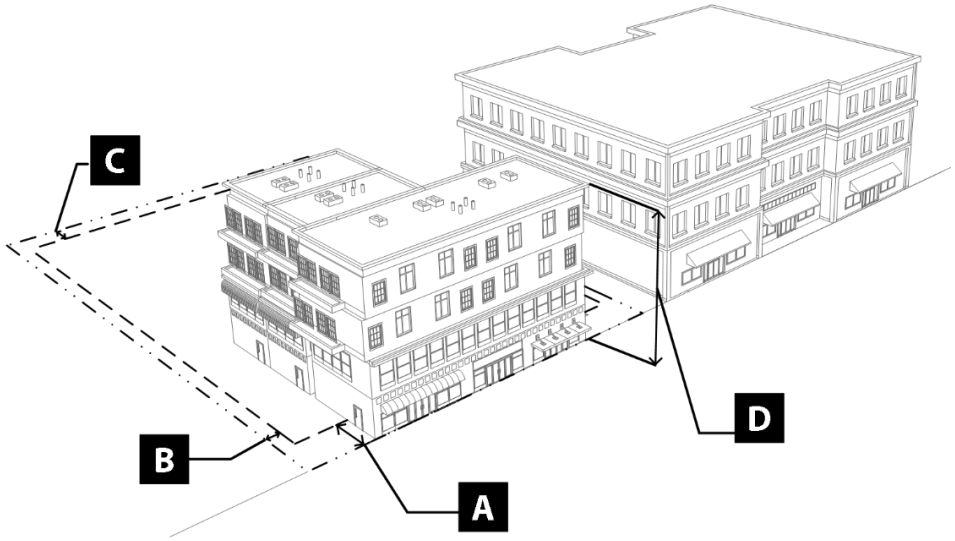
[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] Dimensional and Intensity Standards, the Lot width minimum shall be 20' except that the Lot width minimum for attached townhomes may be reduced to 16' if such units are rear load alley fed units

[3] The area between the minimum and maximum build-to zone boundaries that extends the width of the lot constitutes the build-to zone. The maximum build-to zone boundary may be increased by 15 feet along 25 percent of the lot width for a civic space or outdoor dining area.

[4] Buildings shall be located so that they occupy the minimum percentage of the linear width of the lot's build-to zone (see Section 9.3.A(6)).

[5] The minimum rear setback is 10 feet, except there is no minimum rear setback where the rear lot line abuts an alley.



(4) LOTS FRONTING DALE EARNHARDT BOULEVARD OR LOOP ROAD

Lots that have frontage along Dale Earnhardt Boulevard or Loop Road are exempt from the following standards on those portions of the lot that are within 200 feet of the front lot line:

a. Section 3.4.C(2), Building Façade;

b. Section 3.4.C(5), Building Entrances; and

c. Section 3.4.C(7), Parking Location.

SECTION 3.5. NONRESIDENTIAL DISTRICTS

A. GENERAL PURPOSE OF NONRESIDENTIAL DISTRICTS

The general purpose of nonresidential districts is to:

(1) Provide appropriately located lands for commerce and employment serving the City's residents, businesses, and workers, consistent with the goals and policies of the comprehensive plan and the applicable City plans and policies to support quality economic development;

(2) Strengthen the City's economic base, and provide employment opportunities for residents;

(3) Create suitable environments for various types of businesses and ensure their compatibility with surrounding development;

(4) Accommodate new infill development; and

(5) Ensure nonresidential development is located and designed to protect and/or be compatible with residential areas.

B. ESTABLISHED NONRESIDENTIAL DISTRICTS

The nonresidential districts established by this Ordinance are identified in Table 3.4.I: Established Nonresidential Districts.

TABLE 3.4.I: Established Nonresidential Districts

O-I Office-Institutional District
GC General Commercial District
LI Light Industrial District
HI Heavy Industrial District

C. OFFICE-INSTITUTIONAL DISTRICT

(1) PURPOSE

The purpose of the Office-Institutional (O-I) District is to provide lands for low-intensity office uses and a variety of public, civic, and institutional uses, including, but not limited to, governmental facilities, cultural and recreational facilities, educational facilities, and charitable institutions.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

Lot and Intensity Standards		
	Lot area (min)	None
	Lot width (min)	60 ft
	Impervious surface ratio (max)	0.8
Setback and Height Standards		
A	Front setback (min)	10 ft
B	Side setback (min) [2]	None
C	Rear setback (min)	None
D	Building height (max)	50 ft

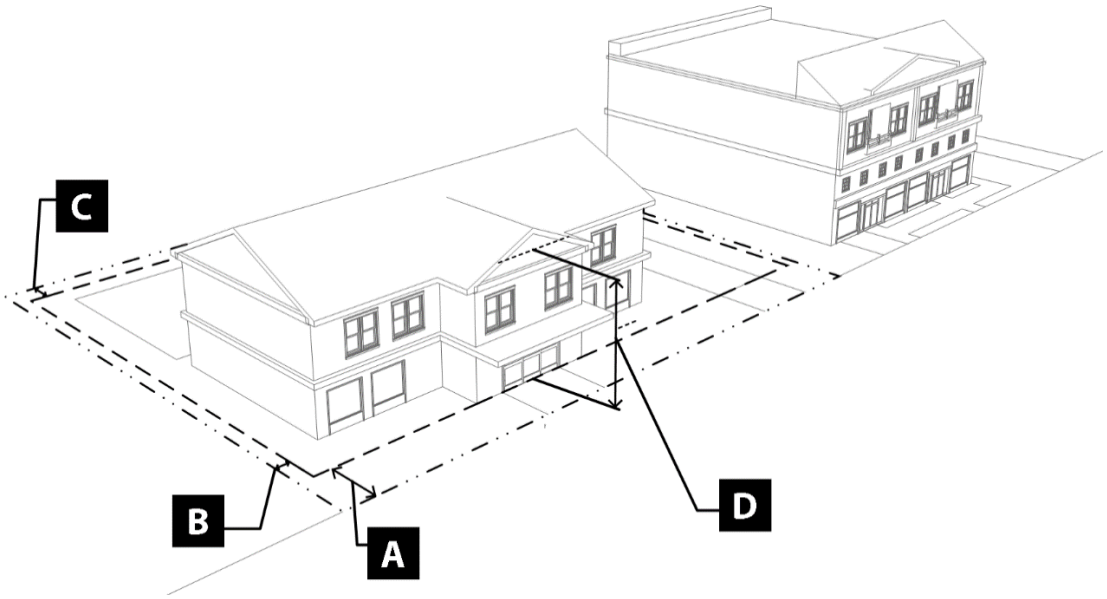
(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



D. GENERAL COMMERCIAL DISTRICT

(1) PURPOSE

The purpose of the General Commercial (GC) District is to provide lands to accommodate a broad range of nonresidential uses characterized primarily by retail, office, and service establishments. Development is primarily auto oriented.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

Lot and Density/Intensity Standards		
	Lot area (min)	None
	Lot width (min)	50 ft
	Density (max)	18 units per acre
	Impervious surface ratio (max)	0.8
Setback and Height Standards		
A	Front setback (min)	10 ft
B	Side setback (min) [2]	None
C	Rear setback (min)	None
D	Building height (max)	48 ft

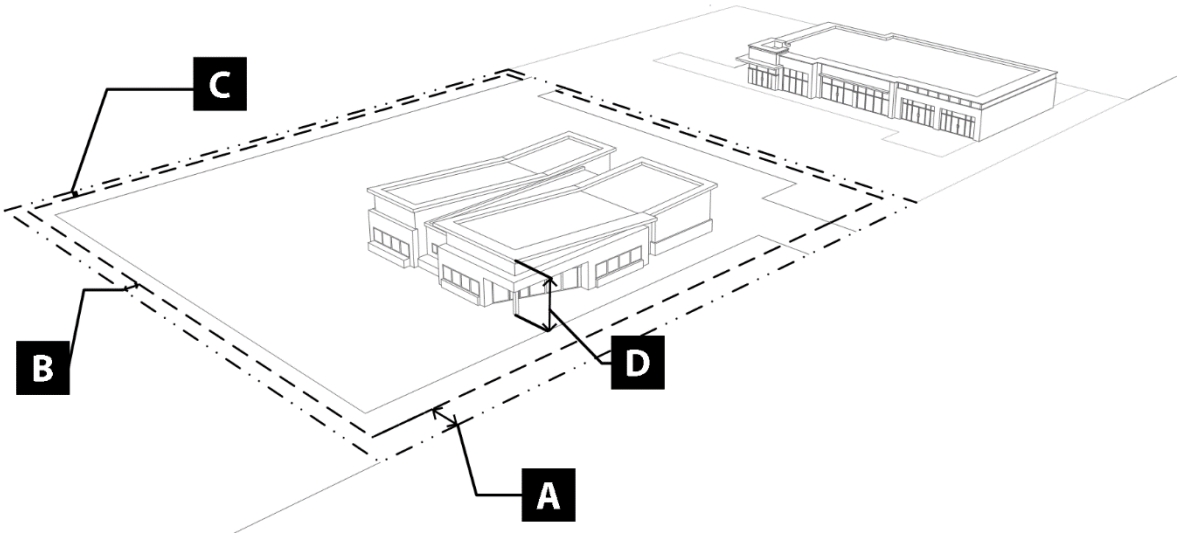
(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



E. LIGHT INDUSTRIAL DISTRICT

(1) PURPOSE

The purpose of the Light Industrial (LI) District is to provide lands that accommodate light production and processing, wholesaling, distribution, storage, industrial services, and limited office uses, which are relatively clean, quiet, and free of objectionable or hazardous elements, such as smoke, noise, odor or dust, and which are generally conducted within a building. The district also accommodates limited commercial uses that primarily serve the principal light industrial uses.

(2) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Intensity Standards	
	Lot area (min)	None
	Lot width (min)	50 ft
	Impervious surface ratio (max)	0.8
	Setback and Height Standards	
A	Front setback (min)	20 ft
B	Side setback (min) [2]	None
C	Rear setback (min)	None
D	Building height (max)	72 ft

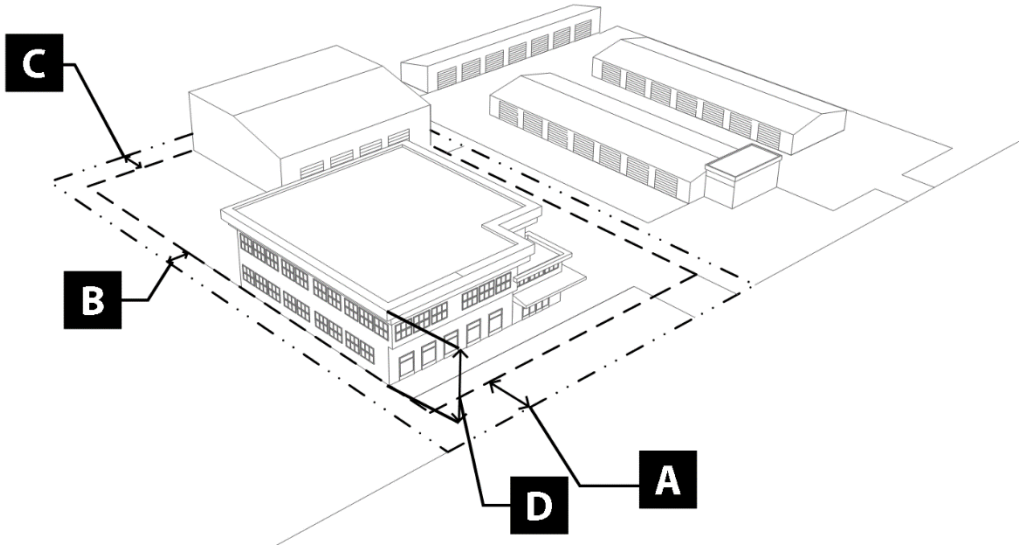
(3) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



F. HEAVY INDUSTRIAL DISTRICT

(1) PURPOSE

The purpose of the Heavy Industrial (HI) District is to provide lands for heavy and concentrated fabrication, manufacturing, and industrial uses that generally involve greater potential for adverse off-site impacts on the environment and surrounding development (i.e. from dust, fumes, smoke, odor, noise, or vibration, or due to extensive movement of vehicles, materials, and goods). This district provides an environment for industries that are adequately separated and buffered from incompatible residential or commercial development.

(1) DIMENSIONAL AND INTENSITY STANDARDS [1]

	Lot and Intensity Standards	
	Lot area (min)	None
	Lot width (min)	50 ft
	Impervious surface ratio (max)	0.9
	Setback and Height Standards	
A	Front setback (min)	30 ft
B	Side setback (min) [2]	None
C	Rear setback (min)	None
D	Building height (max)	72 ft

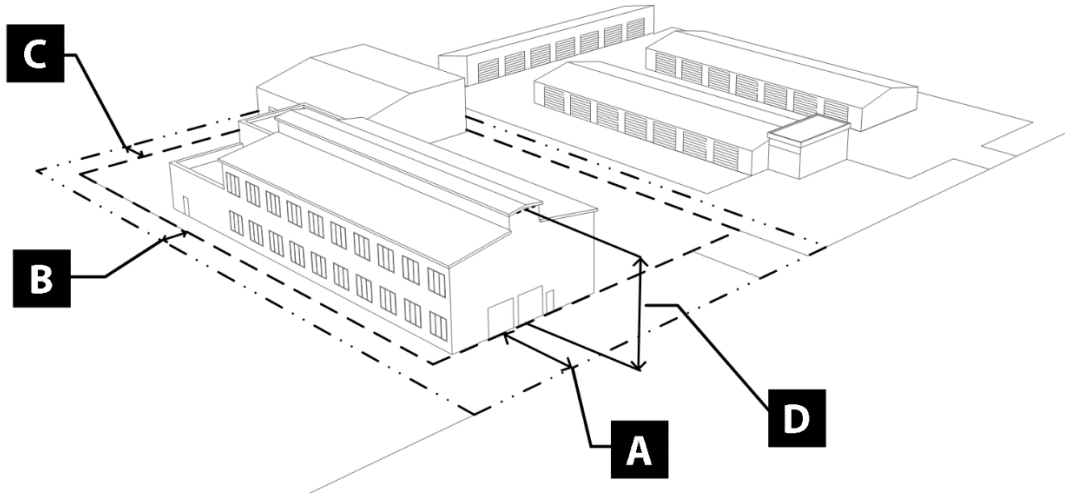
(2) OTHER STANDARDS

Other Standards	Location in KDO
Use Regulations	Article 4
Development Standards	Article 5
Subdivision Standards	Article 6
Rules of Measurement	Section 9.3

NOTES:

[1] May be superseded by other standards in this Ordinance (see Section 3.1.C, Superseding Dimensional and Intensity Standards).

[2] The side setback for the street-facing yard of a corner lot shall equal 75 percent of the required front yard setback.



SECTION 3.6. LEGACY DISTRICTS

A. ESTABLISHED LEGACY DISTRICTS

The Legacy districts established by this Ordinance are identified in Table 3.6.A: Established Legacy Districts.

TABLE 3.6.A: Established Legacy Districts

CD Campus Development District
CD-R Campus Development - Residential District
C-1 Light Commercial and Office District

B. LEGACY DISTRICT REGULATIONS

Uses allowed in each of the Legacy districts are identified in Article 4: Use Regulations. Other standards that apply in the Legacy districts are in Appendix B.

SECTION 3.7. PLANNED DEVELOPMENT DISTRICTS

A. GENERAL PROVISIONS

(1) GENERAL PURPOSE OF PLANNED DEVELOPMENT ZONING DISTRICTS

The purpose of planned development zoning districts is to encourage innovative and efficient land planning and physical design concepts. Planned development zoning districts are intended to:

a. Support a high quality of life and achieve a high quality of development, environmental sensitivity, energy efficiency, and provision of public services;

b. Reduce the inflexibility of zoning district standards that sometimes results from strict application of the base district regulations and development standards established in this Ordinance;

c. Provide greater freedom and flexibility in selecting:

1. The form and design of development;

2. The ways by which pedestrians and vehicular traffic circulate;

3. How the development will be located and designed to respect the natural features of the land and protect the environment;

4. The location and integration of open space and civic space into the development; and

5. Design amenities.

d. Allow greater freedom in providing a well-integrated mix of nonresidential development, residential development, lot sizes, and densities and intensities within the same development;

e. Allow more efficient use of land, with coordinated and right-sized networks of streets and utilities;

f. Provide pedestrian connections within the same development, and to the public right-of way;

g. Encourage the provision of centrally-located open space amenities within the development;

h. Promote development forms and patterns that respect the character of established surrounding neighborhoods and other types of land uses; and

i. Promote development form that respects and takes advantage of a site's natural and culturally significant features, such as rivers, lakes, wetlands, floodplains, trees, and culturally significant human-made and historic resources.

(2) CLASSIFICATION

Land shall be classified to a planned development district only in accordance with the procedure and standards in Section 2.5.A(4), Planned Development.

(3) GENERAL REQUIREMENTS

The standards in this section apply to all planned development districts, in addition to the specific standards that apply to each type of planned development in Sections 3.7.B through 3.7.D below.

a. PLANNED DEVELOPMENT (PD) PLAN

1. As set forth in Section 2.5.A(4), Planned Development, a Planned Development (PD) Plan is a required component in the establishment of a planned development district. The PD Plan shall identify the following, in accordance with the purposes and requirements of the specific type of planned development district:

(a) The planning and development goals for the planned development district;

(b) The principal, accessory, and temporary uses permitted in the planned development district and any standards that apply to specific uses in the district. Permitted uses shall be in compliance with Section 4.2.B(5), Principal Use Table;

(c) The general location of each development area in the planned development district, its acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity;

(d) The dimensional standards that apply in the planned development district;

(e) Where relevant, the standards and requirements that ensure development on the perimeter of the planned development district are designed and located to be compatible with the character of adjacent existing or approved development. Determination of compatible character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, form and design features, hours of operation, exterior lighting, and siting of service areas;

(f) The general location, amount, and type (whether designated for active or passive recreation) of open space;

(g) The location of environmentally sensitive lands, resource lands, wildlife habitat, and waterway corridors, and measures to ensure protection of these lands consistent with the requirements of this section and this Ordinance;

(h) The on-site pedestrian circulation system and how it will connect to off-site pedestrian systems, consistent with the requirements of this Ordinance;

(i) The general design and layout of the on-site transportation circulation system, including the general location of all public streets, existing or projected transit corridors, and how they interface with the pedestrian circulation system (pedestrian and bicycle pathways and trails), and connect to existing and planned City and regional systems, consistent with the requirements of this Ordinance;

(j) The general location of on-site potable water and wastewater facilities, as applicable, and how they will connect to existing and planned City and regional systems, consistent with the requirements of this Ordinance;

(k) The general location of on-site storm drainage facilities, and how they will connect to existing and planned City systems, consistent with the requirements of this Ordinance;

(l) The general location and layout of all other on-site and off-site public facilities serving the development, including but not limited to, parks, schools, and facilities for fire protection, police protection, emergency management, stormwater management, and solid waste management;

(m) The ways in which transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development; and

(n) Any modifications to the development standards in Article 5: Development Standards, that will be applied to planned development, in accordance with Table 3.5.A(3)a: Development Standards that May Be Modified, below. Any modifications to development standards shall be documented in the PD Plan and the PD Agreement, with a clear basis for why the change is needed, how it supports the purpose of the planned development district, and how it supports high-quality development.

Table 3.5.A(3)a: Development Standards that May Be Modified

Standard		Means to Modify
Section 5.1	Mobility, Circulation, and Connectivity Standards	PD Plan and PD Agreement, except modification of Section 5.1.C(2), Sidewalks and Other Pedestrian Facilities, is prohibited, except as otherwise allowed in this Ordinance
Section 5.2	Off-Street Parking, Bicycle Parking, and Loading Standards	PD Plan and PD Agreement
Section 5.3	Landscaping and Buffer Standards	PD Plan and PD Agreement
Section 5.4	Open Space Set-Aside Standards	Modifications prohibited
Section 5.5	Fence and Wall Standards	PD Plan and PD Agreement
Section 5.6	Exterior Lighting Standards	PD Plan and PD Agreement
Section 5.7	Form and Design Standards	PD Plan and PD Agreement
Section 5.8	Neighborhood Compatibility	PD Plan and PD Agreement, except modification is prohibited at the periphery of the district where single-family residential lot(s) outside of the district give rise to the neighborhood compatibility requirements
Section 5.9	Sign Standards	PD Plan and PD Agreement
Section 5.10	Stormwater Management Standards	Modification prohibited
Section 5.11	Sustainable/Green Building Standards	PD Plan and PD Agreement
Section 5.12	Sustainable/Green Building Incentives	PD Plan and PD Agreement
Section 5.13	Traffic Impact Analysis (TIA)	Modification prohibited
Article 6	Subdivision Standards	PD Plan and PD Agreement

2. If development in a planned development district is proposed to be phased, the PD Plan shall include a development phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private), open space, and other amenities will be provided and timed, how development will be coordinated with the City's capital improvements program, and how environmentally sensitive lands will be protected and monitored.

3. The PD Plan may include a conversion schedule that identifies the extent to which one type of use may be converted to another type of use.

b. PLANNED DEVELOPMENT (PD) AGREEMENT

1. As set forth in Section 2.5.A(4), Planned Development, a Planned Development (PD) Agreement is a required component in the establishment of a planned development district. A PD Agreement shall include, but not be limited to:

(a) Conditions related to approval of the application for the individual planned development district classification;

(b) Conditions related to the approval of the PD Plan, including any conditions related to the form and design of development shown in the PD Plan;

(c) Provisions addressing how public facilities (transportation, potable water, wastewater, stormwater management, and other public facilities) will be provided to accommodate the proposed development. This shall include but not be limited to:

1. Recognition that the applicant/landowner will be responsible to design and construct or install required and proposed on-site public facilities in compliance with applicable City, state, and federal regulations; and

2. The responsibility of the applicant/landowner to dedicate to the public the rights-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable City, state, and federal regulations;

(d) Provisions related to environmental protection and monitoring (e.g., restoration or mitigation measures, annual inspection reports);

(e) Identification of community benefits and amenities that will be provided to compensate for the added development flexibility afforded by the individual planned development district; and

(f) Any other provisions the City Council determines relevant and necessary to the development of the planned development.

2. All conditions shall be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding lands.

B. PLANNED DEVELOPMENT DISTRICT

(1) PURPOSE

The purpose of the Planned Development (PD) District is to encourage integrated master planned development in locations throughout the City. A range of residential and nonresidential uses are allowed, with the intent of providing a variety of housing options and mutually supportive nonresidential uses that serve the residents and the surrounding neighborhood. Substantial flexibility is provided, with an expectation that development quality will surpass what is otherwise achievable through the base zoning district. District standards shall support the efficient use of land and resources, protect natural features and the environment, promote greater efficiency in providing public facilities and infrastructure, and mitigate potential adverse impacts on surrounding development.

(2) USE STANDARDS

Allowed uses and use-specific standards for principal, accessory and temporary uses are identified in Article 4: Use Regulations, but only those uses identified as permitted in the PD Plan are permitted in the district.

(3) DIMENSIONAL STANDARDS

DISTRICT STANDARDS	
Contiguous district area, minimum	No minimum
Density, maximum	To be established in PD Plan and PD Agreement
LOT STANDARDS	
Lot area	To be established in PD Plan and PD Agreement
Lot width	
SETBACKS	
Front	To be established in PD Plan and PD Agreement
Side	
Rear	
PD district boundary setback, minimum	25 feet
BUILDING STANDARDS	
Building height	To be established in PD Plan and PD Agreement

(4) PD DISTRICT DEVELOPMENT STANDARDS

Each individual PD district shall comply with the following standards.

a. GENERAL STANDARDS

1. The PD district shall be designed so that uses are generally compact and well-integrated, rather than widely separated and buffered.

2. Compatibility between different uses shall be achieved through site planning and architectural design.

b. STREETS

1. The PD district shall have access to streets capable of accommodating projected traffic needs of the proposed development.

2. Proposed streets and alleys inside the PD district:

(a) Shall be adequate to serve the residents, occupants, visitors, and other anticipated traffic;

(b) May be designed to discourage through traffic from traversing the development;

(c) Shall be designed for the safe and efficient movement of automobiles, bicycles, and pedestrians; and

(d) Shall be connected in a way that encourages walking and bicycling and reduces the number and length of automobile trips.

c. PEDESTRIAN AMENITIES

At minimum, sidewalks and other pedestrian amenities shall be provided as required by Section 5.1, Mobility, Circulation, and Connectivity Standards.

d. RESIDENTIAL USES

1. If more than 15 dwelling units are proposed, the PD district shall include at least two different residential uses (e.g., single-family detached, townhouse, multi-family).

2. Garages on single-family lots shall comply with the following standards:

(a) If the garage faces the same street as the dwelling, it shall be recessed from the non-garage front façade of the dwelling by at least one car length; and

(b) The garage façade shall not exceed 40 percent of the front façade.

C. PLANNED DEVELOPMENT – TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICT

(1) PURPOSE

The purpose of the Planned Development - Traditional Neighborhood Development (PD-TND) District is to encourage innovative and high-quality development that incorporates traditional neighborhood development practices such as compact form with a neighborhood center, a mix of uses, a strong public realm that is human-scale and pedestrian-oriented, integrated open space and recreational opportunities, mixed-use development, and a range of housing choices. Substantial flexibility is provided, with the expectation that development quality will surpass what is otherwise achievable through the base zoning districts. District standards support the City's existing traditional neighborhoods, encourage walkable urbanism, and provide a range of nonresidential uses that serve residents and the surrounding neighborhood.

(2) USE STANDARDS

Allowed uses and use-specific standards for principal, accessory and temporary uses are identified in Article 4: Use Regulations, but only those uses identified as permitted in the PD Plan are permitted in the district.

(3) DIMENSIONAL STANDARDS

DISTRICT STANDARDS	
Contiguous district area, minimum	8 acres
Density, maximum	To be established in PD Plan and PD Agreement
LOT STANDARDS	
Lot area	To be established in PD Plan and PD Agreement
Lot width	
SETBACKS	
Front	To be established in PD Plan and PD Agreement
Side	
Rear	
BUILDING STANDARDS	
Building height	To be established in PD Plan and PD Agreement

(4) PD-TND DISTRICT DEVELOPMENT STANDARDS

Each individual PD-TND district shall comply with the following standards.

a. CENTER AND SUB-CENTERS

A PD-TND district shall be designed with a neighborhood center and may also be served by one or more sub-centers (other neighborhood centers). A neighborhood center or sub-center shall consist of formal open space (such as a square, commons, green, or active recreation area) that is adjacent to nonresidential or civic uses (such as a school, religious institution, or other government building), and served by one or more prominent street intersections. If included, the civic use shall be located in a prominent location. Areas adjacent to neighborhood centers shall be zoned for commercial use.

b. WALKING DISTANCE

At least 80 percent of all residential dwelling units in a PD-TND should be within an eight-minute walk (approximately 1,850 feet) of the neighborhood center or a sub-center .

c. USE MIXING

A PD-TND district shall be designed to provide a mix of residential and nonresidential uses such as single-family dwellings, multi-family dwellings, retail sales and service uses, office uses, and civic and recreational uses. One of the primary purposes of integrating residential and nonresidential uses is to allow residents to meet more of their daily needs within the development. In addition,

provision of a variety of housing options is required to allow greater diversity of residents within the neighborhood.

d. OPEN SPACE SET-ASIDES

1. Location, Configuration, and Improvements

(a) The location, shape, size, and character of the common open space set-asides shall be suitable for the planned development.

(b) A PD-TND district shall include open space set-asides that provide for passive and active recreation. Common open space set-asides shall be improved except that areas containing natural features worthy of preservation shall be left unimproved. The buildings, structures, and improvements located in the set-asides shall be appropriate to the uses which are authorized for it and shall conserve and enhance the amenities of the set-asides based on its topography and unimproved condition.

2. Open Space Design

(a) Open space set-asides should be designed in a hierarchy of formal and informal areas used to enhance community activity, identity, and civic pride.

(b) Formal areas consist of squares, greens, common areas, or other park-like settings where residents of the neighborhood may gather. Such areas are bounded by streets and/or buildings.

(c) Informal areas (typically located throughout the development), take the form of walking paths, greenways, pocket parks, active or passive recreation areas, and areas set aside for retention of vegetation and other natural features.

3. Establishment, Ownership and Operation

(a) A PD-TND district shall include formal open space set-aside areas for recreation and community gathering.

(b) All common open space set-asides shall be set aside and improved no later than the date on which the certificates of occupancy are issued for the first 25 percent of the total number of dwelling units to be constructed within the project area.

(c) Common open space set-asides and recreational facilities shall not be operated as a for-profit enterprise.

(d) All required common open space set-asides shall be conveyed to a homeowners association created for the development.

(e) All land represented as common open space set-asides on the approved PD Plan shall be conveyed to a homeowners association or similar group organized for the purpose, among others, of owning and maintaining common buildings, area, and land within the planned development.

(f) Any conveyance to a homeowners association shall be subject to restrictive covenants and easements, reviewed for compliance with PD Plan by the Planning Director, and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowners association before any homes are sold, where membership is mandatory for each home buyer and any successive buyer, that the association is responsible for liability insurance and local taxes, that any fees levied by the association that remain unpaid will become a lien on the individual property, and that the association will be able to adjust the assessment to meet changing needs. The covenants and easements shall also prohibit future development, or exclusive of semi-exclusive use by any property owner(s), of any common open space and shall provide for continued maintenance of any common open space set-asides, and recreational facilities.

(g) Zoning permits or building permits for any phase of the approved PD Plan shall not be issued unless and until the open space set aside which is part of that phase has been dedicated and improved as specified on the approved PD Plan.

(h) No portion of the planned development shall be conveyed or dedicated to public use by the developer or any other person to any public body or homeowner's association unless the character and quality of the tract to be conveyed makes it suitable for the purposes for which it is intended, taking into consideration the size and character of the dwellings to be constructed within the planned development; the topography and existing trees, ground cover, and other natural features; the manner in which the open space is to be improved and maintained for recreational or amenity purposes; and the existence of public parks or other public recreational facilities in the vicinity.

4. Use of Open Space Set-Aside Areas

Common open space set-asides shall be usable for recreational purposes or for provision of visual, aesthetic, and environmental amenities. The uses authorized for the active or passive common open space set-asides shall be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided. Common open space set-asides shall be used for the benefit of all property owners in the PD-TND district rather than for the exclusive or semi-exclusive use of one or more property owners.

e. LANDSCAPING

1. Perimeter landscaping buffers shall not be required between uses internal to a PD-TND district but shall be provided along the perimeter of the district.

2. Streetscape landscaping requirements may be modified by a PD Plan, but the PD Plan shall include provisions that ensure a transition from the roadway to the sidewalk that enhances aesthetics and pedestrian safety.

f. BUILDING CONFIGURATION

1. Public Buildings and Uses

(a) Public buildings and uses (for example government or cultural facilities, assembly uses, or schools) that serve as focal points and landmarks are encouraged.

(b) Public buildings and uses should be located on prominent sites, such as terminal vistas at the end of streets and on prominent street corners as noted on the PD Plan.

(c) When possible, public buildings and uses shall be located on, or adjacent to, a square, plaza, or village green.

2. Location and Relationship between Buildings

Buildings should have a fairly consistent, narrow setback alignment along the street frontage so that the pattern of buildings along the street:

(a) Helps define the street edge; and

(b) Clearly distinguishes the public realm of the street and the private space of individual lots.

3. Relationship between Building Types

Buildings in a PD-TND district should be built on a human scale and designed with a common and harmonious design and landscape. The intent should not be to create a uniform appearance, but rather a distinct sense of place.

g. SUBDIVISION STANDARDS

The requirements of Article 6: Subdivision Standards, shall apply, except as provided below.

1. The entire area of the PD-TND district shall be divided into blocks, streets, alleys, open space and natural areas, to the maximum extent practicable.

2. The development should be laid out predominantly in an orthogonal grid pattern; however, the street pattern may include radial, curvilinear, or other non-orthogonal elements. Cul-de-sacs are prohibited. Exceptions to the requirements in this section are allowed due to unusual topographical, environmental, or physical conditions.

3. Sidewalks shall be located on both sides of every street. They shall be a minimum of five feet wide, consistent with the requirements in this Ordinance.

4. A seven-foot-wide planting strip shall be located between the street and the sidewalk. Street trees shall be planted in the planting strip and spaced approximately 40 feet on center.

h. STREET STANDARDS

1. Streets shall be organized according to a hierarchy based on function, capacity, and design speed.

2. Streets shall terminate at other streets within the development and connect to existing and projected through streets outside the development. Street stubs shall be provided to adjacent open land to provide for future connections. Permanent cul-de-sacs and hammerhead turnarounds are discouraged.

3. Major and minor thoroughfares are not permitted to penetrate the development.

4. Gated streets are prohibited.

5. There shall be a network of alleys to the rear of the lots, where appropriate, with a minimum of 50 percent of the residential single-family dwellings served by alleys.

6. Direct vehicular access from a lot to an alley is preferred.

7. The right-of-way area of private alleys shall be a common area maintained by a homeowners association.

8. No building lot lines shall extend into, or to the center of, the private alley rights-of-way.

D. PLANNED DEVELOPMENT – CAMPUS DISTRICT

(1) PURPOSE

The Planned Development-Campus (PD-C) District is intended to allow flexibility in development that will result in high-quality, master planned employment and/or institutional uses, such as colleges and universities, hospitals, offices, and light industrial uses in a campus-like setting. The district should use innovative design to integrate core employment and/or institutional uses with supporting commercial, institutional, and residential uses while protecting the larger community, nearby neighborhoods, and the environment from impacts arising from the Campus District development.

(2) USE STANDARDS

Allowed uses and use-specific standards for principal, accessory and temporary uses are identified in Article 4: Use Regulations, but only those uses identified as permitted in the PD Plan are permitted in the district.

(3) DIMENSIONAL STANDARDS

DISTRICT STANDARDS	
Contiguous district area, minimum	5 acres or 1 or more contiguous blocks
Density, maximum	To be established in PD Plan and PD Agreement
LOT STANDARDS	
Lot area	To be established in PD Plan and PD Agreement
Lot width	
SETBACKS	
Front	To be established in PD Plan and PD Agreement
Side	
Rear	
BUILDING STANDARDS	
Building height	To be established in PD Plan and PD Agreement

(4) PD-C DISTRICT DEVELOPMENT STANDARDS

Each individual PD-C District shall comply with the following standards.

a. MOBILITY, CIRCULATION, AND CONNECTIVITY

1. At minimum, sidewalks and other pedestrian amenities shall be provided as required by Section 5.1, Mobility, Circulation, and Connectivity Standards.
2. The pedestrian circulation system and its related walkways shall be insulated as completely as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. Proposed pedestrian circulation within the district shall be properly integrated with buildings, parking areas, and open space.
3. A PD-C district shall have access to streets capable of accommodating projected traffic needs of the proposed development and shall not substantially reduce the level of service on roadways external to the PD-C district.
4. Any proposed streets, alleys, and driveways inside a PD-C district shall be adequate to serve the residents, occupants, visitors, and other anticipated traffic associated with the proposed development.

b. PARKING

Off-street parking facilities shall be sufficient to accommodate the district's employees, residents, and visitors.

c. DESIGN

The form and function of proposed buildings shall be compatible with development immediately adjacent to the district, in terms of building separation, massing, scale, and proportion.

SECTION 3.8. OVERLAY DISTRICTS

A. GENERAL PURPOSE OF THE OVERLAY DISTRICTS

The purpose of overlay districts is to provide supplemental standards with respect to special areas, land uses, or environmental features that supersede the standards of the underlying base zoning districts.

B. ESTABLISHED OVERLAY DISTRICTS

The overlay districts established by this Ordinance are identified in Table 3.8.B: Established Overlay Districts.

TABLE 3.8.B: Established Overlay Districts

AO Airport Overlay District
FPO Flood Plain Overlay District
MHO Manufactured Home Overlay District
TPO Thoroughfare Protection Overlay District
NPO Neighborhood Protection Overlay District
RSO River-Stream Overlay District
WPO Watershed Protection Overlay District

C. AIRPORT OVERLAY (AO) DISTRICT

(1) PURPOSE

The purpose of the Airport Overlay (AO) District is to prevent the creation or establishment of obstructions or land uses that are hazards to air navigation in order to protect the safety and welfare of the users of the Concord Regional Airport, the safety and welfare of occupants of land in the vicinity, and the public investment in the airport. This district is further intended to provide for the safe landing, take-off, and maneuvering of aircraft in accordance with Federal Aviation Administration (FAA) standards.

(2) DISTRICT BOUNDARIES

The AO District consists of five zones, identified in Table 3.8.C(5) below. The boundaries of each zone shall be as shown on the official Concord Regional Airport Hazard Zoning Map, which is incorporated herein by reference. The district boundaries may be modified from time to time by an amendment to this Ordinance.

(3) APPLICABILITY

a. Approval of a zoning clearance permit in accordance with Section 2.5.C(1),, Zoning Clearance Permit, shall be required prior to any material change in the use of land or any erection, alteration, planting, or establishment of any structure or tree in any AO District zone established in this section. In making a decision on the zoning clearance permit application and when otherwise enforcing the provisions of this section, the Planning Director will consult with the Concord Regional Airport Aviation Director where required by this section or in other cases where the Planning Director determines such consultation is appropriate.

b. The Planning Director's approval of a zoning clearance permit in accordance with subsection a above, may be subject to conditions of approval, if deemed advisable to effectuate the purpose of this section and reasonable in the circumstances, requiring the owner of the structure or tree in

question to permit the City of Concord, at the owner's expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

(4) USE STANDARDS

Permitted uses shall be those within the underlying base zoning districts, provided no use may:

a. Create electrical interference with navigational signals or radio communication between the airport and aircraft;

b. Make it difficult for pilots to distinguish between airport lights and other lights;

c. Result in glare in the eyes of pilots using the airport;

d. Impair visibility in the vicinity of the airport;

e. Attract birds or other concentrations of wildlife; or

f. Otherwise in any way create a hazard or endanger the landing, take-off, or maneuvering of aircraft intending to use the airport.

(5) GENERAL AIRPORT OVERLAY DEVELOPMENT STANDARDS

The five zones identified in Table 3.8.C(5): Airport Overlay Development Standards, are hereby established in the AO District. Except as otherwise provided in this Ordinance, no structure or tree shall be erected, altered, allowed to grow or be maintained in any of the zones in Table 3.8.C(5) in accordance with the height restrictions established for the zone in Table 3.8.C(5). Unless otherwise specified, height shall be measured from mean sea level. An area located in more than one of the zones in Table 3.8.C(5) shall be subject to the most stringent height restrictions of the zones in which it is located.

TABLE 3.8.C(5): Airport Overlay Development Standards

ZONE	DESCRIPTION	HEIGHT RESTRICTIONS
PRECISION INSTRUMENT RUNWAY APPROACH ZONE	The inner edge of this approach zone coincides with the width of the primary surface of the runway and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its center line being the continuation of the center line of the runway.	Slopes upward 50 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line, then at a slope of 40:1 for an additional 40,000 feet.
LOCAL BUFFER APPROACH ZONE	The extent of this zone coincides with the Precision Instrument Runway Approach Zone (see Article 10: Definitions).	Uses shall not exceed the maximum height specified for the Precision Instrument Runway Approach Zone, less 10 feet on southern approach only. Uses encroaching into this zone shall be allowed only as special uses, and shall not be constructed, erected, or otherwise established unless and until a special use permit has been issued.

TABLE 3.8.C(5): Airport Overlay Development Standards

ZONE	DESCRIPTION	HEIGHT RESTRICTIONS
TRANSITIONAL ZONES	These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90-degree angles to the runway center line and the runway center line extended a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90-degree angles to the extended runway center line.	Slopes upward and outward seven feet horizontally for each foot vertically beginning at all the sides of and at the same elevation as the primary surface and the approach zones and extending to a height of 150 feet above the airport elevation, or 840 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones and extending to where they intersect the conical surface. Where the precision instrument run approach zone projects beyond the conical zone, height limits sloping upward and outward seven feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface and extending to a horizontal distance of 5,000 feet from the edge of the approach surface measured at 90-degree angles to the extended runway center line.
HORIZONTAL ZONE	The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connection the adjacent arcs by drawing lines tangent to those arcs.	One hundred fifty feet about the airport elevation or a height of 840 feet above mean sea level.
CONICAL ZONE	The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.	Slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, or 1,040 feet above mean sea level.

(6) NONCONFORMING USES

a. This section shall not be construed to require the removal, lowering, or other changes or alteration of any structure or that was lawfully established prior to July 1, 2022, but that does not conform to the regulations in this section, to otherwise interfere with the continuance of a nonconforming use, or to require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was lawfully begun prior to July 1, 2022, and is diligently prosecuted.

b. No zoning clearance permit shall be granted that would allow the expansion of a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on July 1, 2022.

c. Whenever the Concord Regional Airport Aviation Director determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no zoning clearance permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

d. Notwithstanding other provisions in this section, the owner of any existing nonconforming structure or tree is required to permit the installation, operation, and maintenance of markers and lights that are deemed necessary by the Concord Regional Airport Aviation Director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards.

(7) VARIANCES

a. Applications for variances from the height standards in this section shall be in submitted and reviewed in accordance with Section 2.5.D(1), Variance – Zoning. The application for variance shall be accompanied by a determination from the Federal Aviation Administration (FAA) as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. The application shall also include verification that a copy of the application has been furnished to the Concord Regional Airport Aviation Director for advice as to the aeronautical effects of the variance. The Board of Adjustment shall not grant or deny the application until the Aviation Director submits a response to the application or 30 days after the application submittal, whichever occurs first. The Board of Adjustment shall grant a variance only if the Board makes all reqiured findings in Section 2.5.D(1), Variance – Zoning, and if the Board determines that the proposed variance will not create a hazard to air navigation.

b. Any variance granted may include conditions that require the owner of the structure or tree in question to permit the City of Concord, at the owner's expense, to install, operate and maintain markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

(8) ENFORCEMENT

The Planning Director is authorized to commence and proceed to prevent, restrain, correct or abate any violation of this section in accordance with Article 8: Enforcement.

D. FLOODPLAIN PROTECTION OVERLAY (FPO) DISTRICT

(1) STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Articles 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the City Council of the City of Kannapolis, North Carolina, does ordain as follows:

(2) FINDINGS OF FACT

a. The flood prone areas within the jurisdiction of City of Kannapolis are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

b. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

(3) PURPOSE OF DISTRICT

It is the purpose of the Floodplain Protection Overlay (FPO) District to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

a. Restrict and prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

b. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

d. Control filling, grading, dredging and all other development that may increase erosion or flood damage; and

e. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(4) OBJECTIVES OF DISTRICT

The objectives of this Section 3.8.D are to:

a. Protect human life, health, and safety;

b. Minimize expenditure of public money for costly flood control projects;

c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. Minimize prolonged business losses and interruptions;

e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable, sewer lines, streets and bridges located in flood prone areas;

f. Minimize damage to private and public property due to flooding;

g. Make flood insurance available to the community through the National Flood Insurance Program (NFIP);

h. Maintain the natural and beneficial functions of floodplains;

i. Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

j. Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

(5) DEFINITIONS

For purposes of this Section 3.8.D, the following terms and uses (shown in bold font), shall have the meaning ascribed to them below.

Accessory Structure (Appurtenant Structure)

A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like, qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building)

An extension or increase in the floor area or height of a building or structure.

Alteration of a watercourse

A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal

A request for a review of the Floodplain Administrator's interpretation of any provision of this section.

Area of Future-Conditions Flood Hazard

The land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

Area of Shallow Flooding

A designated Zone AO or AH on the City's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE)

A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

Building

See "Structure".

Chemical Storage Facility

A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Design Flood

See "Regulatory Flood Protection Elevation."

Development

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Digital Flood Insurance Rate Map (DFIRM)

The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Disposal

As defined in N.C.G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Elevated Building

A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment

The advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

Existing building or structure

Any building and/or structure for which the "start of construction" commenced before the effective date of the City's floodplain regulations.

Existing Manufactured Home Park or Manufactured Home Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the City's floodplain regulations.

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

a) The overflow of inland or tidal waters; and/or

b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM)

An official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood Hazard Boundary Map (FHBM)

An official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

Flood Insurance

The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

Flood Insurance Rate Map (FIRM)

An official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

Flood Insurance Study (FIS)

An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the

FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area

See "Floodplain"

Flood Zone

A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floodplain

Any land area susceptible to being inundated by water from any source.

Floodplain Administrator

The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit

Any type of permit that is required in conformance with the provisions of this section, prior to the commencement of any development activity. (See Section 2.5.C(7).)

Floodplain Management

The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations

This section, this Ordinance, and other building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Flood-resistant material

Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway

The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway encroachment analysis

An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

Freeboard

The height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the "Regulatory Flood Protection Elevation".

Functionally Dependent Facility

A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hazardous Waste Management Facility

As defined in N.C.G.S. 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest Adjacent Grade (HAG)

The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure

Any structure that is:

a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

e) Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC)

An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is actually on natural

high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the City's floodplain management regulations.

d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck

Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

c) Available with special features enabling off-street or off-highway operation and use.

Lowest Adjacent Grade (LAG)

The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map Repository

The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products.

Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data, the NC FRIS website (http://FRIS.NC.GOV/FRIS) is the map repository, and for historical flood hazard data the FloodNC website (http://FLOODNC.GOV/NCFLOOD) is the map repository.

Market Value

The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

New Construction

Structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Non-Encroachment Area (NEA)

The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

Post-FIRM

Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM

Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

Principally Above Ground

At least 51 percent of the actual cash value of the structure is above ground.

Recreational Vehicle (RV)

A vehicle, which is:

a) Built on a single chassis;
b) 400 square feet or less when measured at the largest horizontal projection;
c) Designed to be self-propelled or permanently towable by a light duty truck;
d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
e) Is fully licensed and ready for highway use.

Reference Level

The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

Regulatory Flood Protection Elevation

The "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

Remedy a Violation

To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Riverine

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage Yard

Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid Waste Disposal Facility

Any facility involved in the disposal of solid waste, as defined in N.C.G.S. 130A-290(a)(35).

Solid Waste Disposal Site

As defined in N.C.G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA)

The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

Start of Construction

Includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure

A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Substantial Damage

Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

Substantial Improvement

Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

a) Any correction of existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued in accordance with Section 2.5.D(1), Variance – Zoning.

Technical Bulletin and Technical Fact Sheet

A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

Temperature Controlled

Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Threats to Public Safety and/or Nuisance

Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Variance

See Section 2.5.D(1).

Violation

The failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Ordinance is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSE)

The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse

A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(6) LANDS TO WHICH REGULATIONS APPLY

This Section 3.8.D shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the City of Kannapolis and within the jurisdictions of any other community whose governing body agrees, by resolution, to such applicability.

(7) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Cabarrus County dated November 16, 2018, and associated Digital Flood Insurance Maps (DFIRM) panels, including any digital data developed as part of the FIS which are adopted by reference and declared to be a part of this Ordinance, and all revisions thereto, and shall constitute the official boundaries of the Floodplain Overlay District.

(8) COMPLIANCE WITH THIS ORDINANCE

No structure or land shall be located, extended, converted, altered, or developed in any way without full compliance with the terms of this section and other applicable regulations.

(9) ABROGATION AND GREATER RESTRICTIONS

This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Section 3.8.D and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(10) INTERPRETATION AND APPLICATION

In the interpretation and application of this Section 3.8.D, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the City; and

c. Deemed neither to limit nor repeal any other powers granted under State statutes.

(11) PENALTIES FOR VIOLATION

Violation of the provisions of this Section 3.8.D or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall subject the violator to Section 8.6. Nothing contained in this section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(12) WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this section, or any administrative decision made pursuant to this section.

(13) DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Planning Director or his/her designee, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this Section.

(14) DUTIES OF ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

a. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this section have been satisfied.

b. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

c. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is maintained.

e. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this section are met.

f. Obtain actual elevation, in relation to mean sea level, of the reference level, including the basement, and all attendant utilities of all new or substantially improved structures, in accordance with Section 3.8.D(16).

g. Obtain actual elevation, in relation to mean sea level, to which the new or substantially improved structures and utilities have been floodproofed, in accordance with Section 3.8.D(16).

h. Obtain actual elevation, in relation to mean sea level, of all public utilities in accordance with Section 3.8.D(16).

i. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or surveyor in accordance with Section 3.8.D(16).

j. Where interpretation is needed as to the exact location of boundaries of the areas of the Special Flood Hazard Areas, floodways, or non-encroachment areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation in accordance with Section 2.5.D(4), Appeal of Administrative Decision.

k. When Base Flood Elevation (BFE) data has not been provided in accordance with this section, obtain, review and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State or other source in order to administer the provisions of this section.

l. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area date has been provided in accordance with this section, obtain review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this section.

m. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

n. Permanently maintain all records that pertain to the administration of this section and make these records available for public inspection.

o. Make on site inspections of work in progress.

p. Issue stop work orders as required.

q. Revoke floodplain development permits as required.

r. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of their inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

s. Follow through with corrective procedures of Section 3.8.D(18), Remedy to Violation.

t. Review, provide input, and make recommendations for variance requests.

Maintain a current map repository including, but not limited to, FIS Report, FIRM and other official flood maps and studies adopted in accordance with o,

u. Lands to Which Regulations Apply, including any revisions including Letters of Map Change, issued by FEMA.Notify State and FEMA of mapping needs.

v. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

(15) FLOODPLAIN DEVELOPMENT PERMIT

a. A floodplain development permit shall be required in conformance with Section 2.5.C(9) and the provisions of this section prior to the commencement of any development activities within Special Flood Hazard Areas.

b. Application of a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The Applicant shall submit a flood prevention plan in accordance with the LDSM.

c. The floodplain development permit shall include, but not be limited to:

1. A description of the development to be permitted under the floodplain development permit.

2. The Special Flood Hazard Area determined for the proposed development in accordance with available data specified in Section 3.8.D(7), Basis for Establishing the Areas of Special Flood Hazard.

3. The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

4. The Regulatory Flood Protection Elevation required for the protection of all public utilities.

5. All certification submittal requirements with timelines.

6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

7. The flood openings requirements.

8. Limitations of below BFE enclosure uses (if applicable) (i.e. parking, building access, and limited storage only).

(16) CERTIFICATION REQUIREMENTS

a. ELEVATION CERTIFICATES

1. An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

2. An elevation certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, and a description of any work done after the establishment of the reference level elevation.

3. A final as-built elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause the issuance of a certificate of compliance/occupancy to be withheld.

b. FLOODPROOFING CERTIFICATE

1. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a floodproofing certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan area is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to the permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

2. A final finished construction floodproofing certificate (FEMA Form 086-0-34), with supporting data, an operation plan, and an inspection and maintenance plan are required prior to the issuance of a certificate of compliance/occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate date, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to certificate of occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certificate design shall be cause to deny a certificate of compliance/occupancy.

c. If a manufactured home is placed within Zone A, AO, AE, AH, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with Section 3.8.D(21)b, Manufactured Homes.

d. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation, a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream, and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

e. CERTIFICATION EXCEPTIONS

The following structures, if located within Zone A, AO, AE, AH, A99, are exempt from the elevation/floodproofing certification requirements specified in Section 3.8.D(16)a, Elevation Certificates, and Section 3.8.D(16)b, Floodproofing Certificate:

1. Recreational vehicles meeting requirements of Section 3.8.D(26);
2. Temporary structures meeting requirements of Section 3.8.D(23); and
3. Accessory structures less than 150 square feet meeting requirements of Section 3.8.D(24).

f. DETERMINATION FOR EXISTING BUILDINGS AND STRUCTURES

For applications for building permits to improve buildings and structures, including alternations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvements of or work on such building and structures, the Floodplain Administrator shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirement of the North Carolina State Building Code and this section is required.

(17) INSPECTIONS AND VIOLATIONS

a. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to this section and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the City at a reasonable hour for the purposes of inspection or other enforcement action.

b. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this section, the Floodplain Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing or in charge of the work. The stop work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.

c. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or City laws, or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or City law may also be revoked.

d. When the Floodplain Administrator finds violations of applicable State and City laws, it shall be the duty of the Administrator to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(18) REMEDY TO VIOLATION

a. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

1. That the building or property is in violation of the floodplain management regulations;

2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

3. That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

b. If, upon a hearing held in accordance with the notice prescribed above, the Floodplain Administrator finds that the building or development is in violation of this Section 3.8.D, the Administrator shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, or more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, the Administrator may order that corrective action be taken in such lesser period as may be feasible.

c. Any applicant or landowner for which a floodplain development permit has been denied, or to which conditions have been attached, or any applicant or landowner who has received an order to take corrective action, may initiate an appeal from the decision or order in accordance with Section 2.5.D(4), Appeal of Administrative Decision.

d. If the owner of a building or property fails to comply with an order to take corrective actions for which no appeal has been made or fails to comply with an order of the City Council following an appeal, the owner shall be guilty of a Class 1 misdemeanor in accordance with N.C.G.S. § 143-215.58. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction, be subject to Section 8.6.B, Penalties for Violation. Nothing contained in this section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(19) VARIANCE PROCEDURES

a. The Board of Adjustment shall hear and decide requests for variances from the requirements of this Section 3.8.D in accordance with the procedures and standards in Section 2.5.D(1), Variance – Zoning.

b. Any person aggrieved by the decision of the Board of Adjustment may appeal the decision to the Court, as provided by N.C.G.S. Chapter 7A.

c. Variances may be issued for:

1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

2. Functionally dependent facilities, provided such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

3. Any other type of development, provided it meets the requirements of this section (3.8.D(19)).

d. In approving a variance, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in in this Section 3.8.D, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location as a functionally dependent facility, where applicable;

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

e. The findings listed above shall be submitted to the Board of Adjustment in writing and included in the application for a variance.

f. Upon consideration of the factors listed above, and the purposes of this Section 3.8.D, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section 3.8.D.

g. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

h. Conditions for variances are as follows:

1. Variances shall not be issued when the variance will render the structure in violation of other Federal, State, or City laws, regulations, or ordinances.

2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. Variances shall only be issued prior to development permit approval.

4. Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

i. A variance may be issued for solid waste disposal facilities per site, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the flowing conditions are met:

1. The use serves a critical need in the community;

2. No feasible location exists for the use outside the Special Flood Hazard Area;

3. The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation;

4. The use complies with all other applicable Federal, State, and local laws; and

5. The City of Kannapolis has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

j. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risk of life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

k. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(20) PROVISIONS FOR FLOOD HAZARD REDUCTION

In all Special Flood Hazard Areas, the following provisions are required:

a. All new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, and lateral movement of the structure;

b. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

c. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

d. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panel/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches;

e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

g. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

h. Nothing in this section (3.8.D) shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this section (3.8.D) and located totally or

partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this section (3.8.D);

i. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 3.8.D(19)i. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 3.8.D(16);

j. All subdivision and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law;

k. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements; and

l. When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

m. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

(21) SPECIFIC STANDARDS FOR CONSTRUCTION OF PERMANENT STRUCTURES

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 3.8.D(7) or Section 3.8.D(16), the following provisions, in addition to the provisions of Section 3.8.D(20) are required:

a. RESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including the basement, elevated no lower than the Regulatory Flood Protection Elevation.

b. MANUFACTURED HOMES

The following shall apply to manufactured homes only:

1. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation.

2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to N.C.G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

3. All enclosures or skirting below the lowest floor shall meet the requirements of Section 3.8.D(22).

4. An evacuation plan must be developed of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prove areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

c. NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any commercial, industrial, or non-residential structure shall have the reference level, including the basement, elevated no lower than the Regulatory Flood Protection Elevation. Structures located in A, AE, AO, AH and A99 Zones may be floodproofed to the regulatory flood prevention elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 3.8.D(16)b, Floodproofing Certificate. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in o,

Lands to Which Regulations Apply, along with the operational and maintenance plans.

(22) ELEVATED BUILDINGS

a. New construction or substantial improvements of elevated buildings that include fully enclosed areas which are below the lowest floor:

1. Shall not be temperature controlled or conditioned. Shall not be designed or used for human habitation but shall only be used for the parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises;

2. Shall have the minimum access to the enclosed area necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator);

3. Shall not have the interior portion of the enclosed area partitioned or finished into separate rooms, except to enclose storage rooms;

4. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

5. Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(23) TEMPORARY NON-RESIDENTIAL STRUCTURES

Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

a. All applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification.

b. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;

1. A specified time period for which the temporary use will be permitted time specified may not exceed three months, renewable up to one year;

2. The name, address and phone number of the individual responsible for the removal of the temporary structure;

3. The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

5. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(24) ACCESSORY AND OTHER STRUCTURES

a. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Boundary Area, the following criteria shall be met:

1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

2. Accessory structures shall not be temperature-controlled;

3. Accessory structures shall be designed to have low flood damage potential;

4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

5. Accessory structures shall be firmly anchored in accordance with Section 3.8.D(20);

6. Service facilities such as electrical shall be installed in accordance with Section 3.8.D(20).

7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below base flood elevation in conformance with Section 3.8.D(22).

b. An accessory structure with a footprint of less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 3.8.D(16).

c. TANKS

When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

1. Underground tanks: Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

2. Above-ground tanks, elevated: Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation designed to prevent floatation, collapse or lateral

movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirement of the applicable flood hazard area;

3. Above-ground tanks not elevated: Above-ground tanks that do not meet the elevation requirement of subsection 2 above shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood without release of content in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions;

4. Tanks, inlets and vents: Tank inlets, fill openings and vents shall be:

(a) At or above Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of design flood.

d. OTHER DEVELOPMENT

1. Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockage fences and wire mesh fences, shall meet the requirements of Section 3.8.D(28).

2. Retaining walls, sidewalks and driveways in regulated floodways and NEAs that involve placement of fill in regulated floodways shall meet the requirements of Section 3.8.D(28).

3. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the requirements of Section 3.8.D(28).

4. Commercial storage facilities are not considered "limited storage" as noted in this section and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

(25) ADDITIONS/IMPROVEMENTS

a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure; and

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

d. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this section. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on average, equals or exceed 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified and that are the minimum necessary to assume safe living conditions;

2. Any alterations of a historic structure provided that the alteration will not produce the structure's continued designation as an historic structure.

(26) RECREATIONAL VEHICLES

A Recreation vehicle shall either:

a. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

b. Meet all requirements for new construction.

(27) STANDARDS FOR LAND SUBDIVISIONS

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(28) FLOODWAYS AND NON-ENCROACHMENT AREAS

a. Areas designated floodways or non-encroachment areas are located within Special Flood Hazard Areas established in Section 3.8.D(7). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 3.8.D(20) through Section 3.8.D(22), shall apply to all development within such areas:

b. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

1. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

2. A Conditional Letter of Map Revisions (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

c. If subsection b above is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this section.

d. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, providing the following provisions are met:

1. The anchoring and the elevation standards of Section 3.8.D(21); and

2. The no encroachment standard of subsection b above.

(29) STREAMS WITHOUT BASE FLOOD ELEVATIONS AND/OR FLOODWAYS

a. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 3.8.D(7), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 3.8.D(20), shall apply:

1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable provisions of this division and shall be elevated or floodproofed in accordance with elevations established in accordance with Section 3.8.D(20) and Section 3.8.D(21).

(b) When floodway data is available from a Federal, State, or other resource, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Section 3.8.D(21) and Section 3.8.D(24).

(c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) date if development is greater than five acres or has more than 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 3.8.D(7) and utilized in implementing this section..

(d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation. All other applicable provisions of Section 3.8.D(21) and Section 3.8.D(22) shall also apply.

(30) STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

a. Standards of Sections Section 3.8.D(20) and Section 3.8.D(21); and

b. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

(31) AREAS OF SHALLOW FLOODING (AO ZONES)

Located within the Special Flood Hazard Areas established in Section 3.8.D(7) are areas designated as shallow flooding areas. These areas have special flood hazard associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 3.8.D(20) through Section 3.8.D(22), all new construction and substantial improvements shall meet the following requirement:

a. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth is specified.

(32) AREA OF SHALLOW FLOODING (ZONE AH)

Located within the Special Flood Hazard Areas established in Section 3.8.D(7) are areas designated as shallow flooding areas. These are subject to inundation by one percent annual chance shallow flooding (usually area of ponding) where average depths are one to three feet. Base Flood Elevations derived from detailed hydraulic analyses are shown in this zone. For all new construction and substantial improvement, adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(33) EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This subsection in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted October 27, 2008 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforces. The enactment of this section shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Kannapolis enacted on October 27, 2008, as amended, which are not reenacted herein are repealed.

E. MANUFACTURED HOME OVERLAY (MHO) DISTRICT

(1) PURPOSE

The purpose of the Manufactured Home Overlay (MHO) District is to provide land area for the provision of manufactured housing in order to provide market rate affordable housing opportunities for low- and moderate-income persons, consistent with state and federal law. The district is intended to provide for the use of a manufactured home as a principal use of land developed in harmony with the underlying zoning district regulations and in accordance with specific design and/or installation regulations.

(2) CLASSIFICATION OF MANUFACTURED HOMES

a. For purposes of this section, manufactured homes (see Article 10: Definitions) shall be classified into the following two types:

1. A Type 1 manufactured home is a single-section manufactured home less than 17 feet in width; and

2. A Type 2 manufactured home is a multi-section manufactured home greater than or equal to 17 feet in width.

b. The width of a manufactured home shall be determined by mean width when all sections are in a final assembly arrangement.

c. Modular housing constructed to meet the North Carolina State Building Code are not considered manufactured homes for purposes of this section and shall be exempt from the restrictions of this section. Such modular housing shall be permitted in any single-family detached dwelling zoning district subject to compliance with all other applicable provisions of this Ordinance.

(3) ESTABLISHMENT AND SUBDISTRICTS

a. The MHO District is established and shall consist of the following two subdistricts, in order to provide flexibility with regard to various manufactured home products:

1. The MH-1 Subdistrict; and

2. The MH-2 Subdistrict.

b. The MHO district and subdistrict boundaries shall be identified on the Zoning Map.

(4) MODIFICATION OF UNDERLYING USE PERMISSIONS

Within the MHO District, use permissions shall be those that apply in the underlying zoning district, except as follows:

a. Within MH-1 Subdistrict, the following additional uses are permitted, subject to the standards in Section 4.2.D(3)a.2, Manufactured Home:

1. Type 1 manufactured homes; and

2. Type 2 manufactured homes.

b. Within the MH-2 Subdistrict, the following additional uses are permitted, subject to the standards in Section 4.2.D(3)a.2, Manufactured Home:

1. Type 2 manufactured homes.

F. THOROUGHFARE PROTECTION OVERLAY (TPO) DISTRICT

(1) FINDINGS AND PURPOSE

a. Certain transportation corridors are of critical importance to the City, carrying high volumes of traffic and transit riders, and serving as visual gateways into the community. Such corridors may be entryways for visitors and residents and destinations, workplaces, and homes for shoppers, workers, and residents.

b. The Thoroughfare Protection Overlay (TPO) District is intended to enhance the economic value, aesthetic appeal, and orderly development of properties along specified major transportation corridors in Kannapolis. Standards are provided to ensure that development in the district supports multiple modes of transportation and is consistent with enhanced urban form and design standards.

(2) APPLICABILITY

a. Except as otherwise provided in subsections c and d below, all development within the TPO District shall comply with the standards that apply in the subdistrict where it is located.

b. If the provisions of this section conflict with another provision in this Ordinance, the more restrictive provision shall control.

c. Single-family and duplex dwellings on individual lots shall be exempt from the requirements of this section except for the Corridor Preservation Areas in the Coddle Creek Subdistrict.

d. In addition, the following are exempt from the standards in Section 3.8.F(5), General Development Standards:

1. Any expansion of an existing structure that is nonconforming with respect to the standards in Section 3.8.F(5), General Development Standards, by up to 50 percent of the existing floor area; and

2. Development limited to the modification of an existing parking area.

(3) ESTABLISHMENT AND SUBDISTRICTS

The Thoroughfare Protection Overlay (TPO) District is established and shall consist of the following two subdistricts:

a. CODDLE CREEK SUBDISTRICT

The Coddle Creek Subdistrict consists of multiple segments identified in Table 3.8.F(3)a: Coddle Creek Subdistrict Segments. The subdistrict boundaries extend 200 feet from one or both sides of the identified segment of road or highway, as specified in Table 3.8.F(3)a, measured from and perpendicular to the road right-of-way. Each segment shall include a "Corridor Preservation Area" extending the width specified in Table 3.8.F(3)a from both sides of the identified segment of road or highway, or from one side of the segment if the subdistrict boundaries only exist on one side, measured perpendicular to the road right-of-way. Building and parking areas are prohibited within the Corridor Preservation Area. The Coddle Creek Subdistrict is identified on the Zoning Map.

Table 3.8.F(3)a: Coddle Creek Subdistrict Segments

Road or Highway Segment and Side of Segment	Corridor Preservation Area Width
North side of Davidson Highway (NC 73) from Coddle Creek to the Mecklenburg County line (within Kannapolis city limits)	35 feet
Both sides of Trinity Church Road from Orphanage Road to Barr Road and the east side of Trinity Church Road from Barr Road to Stirewalt Road	55 feet from Orphanage Road to the Westside Bypass (existing Boy Scout Camp Road); 40 feet from Westside Bypass to Stirewalt Road
Both sides of the Kannapolis Parkway (Westside Bypass, including the existing Crisco Road and the existing Boy Scout Camp Road) from Interstate 85 to Mooresville Road (NC 3)	0 feet (No Corridor Preservation Area)
Both sides of Davidson Highway (NC 73) from Interstate 85 to the westernmost boundary of the City's limits	35 feet
Both sides of Mooresville Road (NC 3) from seventy-five feet (75') south of the centerline of Rainbow Drive to the westernmost boundary of the City's limits	40 feet

b. DALE EARNHARDT BOULEVARD SUBDISTRICT

The Dale Earnhardt Boulevard Subdistrict includes properties (or portions of properties) parallel to both sides of the Dale Earnhardt Boulevard rights-of-way to a maximum depth of 300 feet. The subdistrict is measured perpendicular to the to the existing road right-of-way. The Dale Earnhardt Boulevard Subdistrict is identified on the Zoning Map.

(4) MODIFICATION OF UNDERLYING USE PERMISSIONS

Within the TPO District, use permissions shall be those that apply in the underlying zoning district, except as follows:

a. Within the Coddle Creek Subdistrict, the following uses are prohibited:

1. Kennels;

2. Amusement parks;

3. Uses in the Vehicle Sales and Services category;

(a) Sites that have frontage on an arterial highway and within 500 feet of an intersection of two or mor major arterial highways shall be permitted if no vehicles are stored on site.

4. Prefabricated building sales;

5. Self-service storage;

6. Motor freight facilities; and

7. Outdoor storage areas (as an accessory use).

b. Within the Dale Earnhardt Boulevard Subdistrict, the following uses are prohibited:

1. Kennels;

2. Amusement parks;

3. Uses in the Vehicle Sales and Services category;

4. Prefabricated building sales;

5. Self-service storage;

6. Motor freight facilities; and

7. Outdoor storage areas (as an accessory use).

(5) GENERAL DEVELOPMENT STANDARDS

Development in the subdistricts shall comply with the following standards.

a. BUILDING FORM

New buildings shall have generally complex exterior form, including design components such as windows, doors, and changes in roof and facade orientation. Large flat expanses of featureless exterior wall shall be avoided. Roof designs for new buildings, particularly those with less than 10,000 square feet of gross floor area, should be pitched with a slope of 6:12 or greater. Mansard roofs and parapet walls may be considered to conceal roofs with pitches of less than 6:12. Flat roofs are discouraged. To avoid the visual monotony created by large, blank building elevations, the elevation must be separated by a projection or structural relief such as:

1. Constructing a porch with a roof;

2. Incorporating fascia's, canopies, arcades, or other multidimensional design features to break up large wall surfaces on their street facing elevations;

3. Setting part of the facade back at least three feet from the rest of the façade;

4. Creating a visually distinct ground floor;

5. Providing for changes in material or texture; and

6. Installing a row of windows on the building's street facing elevation.

b. EXTERIOR BUILDING MATERIALS

Building materials shall be of a high quality and may include utility brick, standard brick, stucco, synthetic stucco, colored split-faced block, glass stone, tile or other similar high-quality materials. No front or side building elevation, including the visible foundation, may be covered (exposed) with sheet or corrugated aluminum, iron or steel, plain concrete, plain concrete block, or exterior panelized plywood, except as secondary exterior finish materials if they cover no more than 10 percent of the surface area; such materials may cover up to 25 percent of rear building elevations. Awnings should be constructed of canvas or a similar material.

c. SCREENING

1. HVAC and similar types of incidental machinery or equipment shall be screened from view or located in such a manner as to not be visible from the street. Trash receptacles, dumpsters, utility meters, aboveground tanks, satellite dishes and antennas shall be similarly screened.

2. All roof-mounted equipment, including HVAC systems, satellite dishes, and other communication equipment, must be screened from adjacent street or parking area views in one of the following ways (solar heating panels are exempt from this standard):

(a) A parapet as tall as the tallest part of the equipment;

(b) A screen around the equipment that is as tall as the tallest part of the equipment; or

(c) The equipment is set back from the street-facing perimeters of the building three feet for each foot of height of the equipment.

(6) DALE EARNHARDT BOULEVARD SUBDISTRICT STANDARDS

In addition to the standards in Section 3.8.F(5), General Development Standards, development in the Dale Earnhardt Boulevard Subdistrict shall comply with the following standards.

a. LANDSCAPING AND BUFFERING

Standards for landscaping and buffering areas shall be determined by the minimum standards in Section 5.3, Landscaping and Buffer Standards, except that within the required setbacks fronting along Dale Earnhardt Boulevard, only Yoshino Cherry trees, or an alternative species approved by the Planning Director, shall be planted.

(7) CHANGE/RESUMPTION OF USE

When the permitted use of an existing building or structure with nonconforming site improvements is changed, or is resumed after ceasing for more than six consecutive months, the nonconforming site improvements shall be brought into conformity with this Ordinance in accordance with Article 7: Nonconformities, but shall not be required to conform to the standards in this section.

G. NEIGHBORHOOD PROTECTION OVERLAY DISTRICT

(1) PURPOSE

The purpose of the Neighborhood Protection Overlay (NPO) District is to protect and preserve the unique development features and character of established neighborhoods throughout the City, and to promote new development that is compatible with the existing neighborhood character. The district is a flexible tool that may be applied to multiple neighborhoods, each of which could have its own unique attributes.

(2) APPLICABILITY

a. When a specific NPO subdistrict is established in accordance with this section, development within the NPO subdistrict shall comply with the applicable subdistrict standards.

b. In instances where there is a conflict between the standards in this section and the base district standards, the standards in this section shall control, unless expressly stated to the contrary.

(3) NPO DISTRICT BOUNDARIES

The NPO district and subdistrict boundaries shall be identified on the Zoning Map.

(4) ESTABLISHMENT OF NPO SUBDISTRICTS

a. ESTABLISHMENT

Specific NPO subdistricts shall be established in accordance with Section 2.5.A(1), Text Amendment, and Section 2.5.A(2), Zoning Map Amendment, and shall be included in Section 3.8.G(4), Establishment of NPO Subdistricts, as they are established by the City.

b. STANDARDS FOR DESIGNATION

An NPO subdistrict may be established for any neighborhood, if it complies with the following requirements:

1. A neighborhood plan, reviewed by the Planning and Zoning Commission and adopted by the City Council, is approved for the proposed NPO subdistrict, specifying the development context in the subdistrict;

2. At least 65 percent of the land area within the proposed subdistrict, not including street and other rights-of-way, must be developed;

3. Development patterns in the proposed subdistrict demonstrate an on-going effort to maintain or rehabilitate the character and physical features of existing buildings in the subdistrict;

4. There is existing or anticipated pressure for new development or redevelopment or new infill development within the proposed subdistrict;

5. The neighborhood shall possess one or more of the following distinctive features that create a cohesive identifiable setting, character, or association:

(a) Scale, size, type of construction, or distinctive building materials;

(b) Lot layouts, setbacks, street layouts, alleys, or sidewalks;

(c) Special natural or streetscape characteristics, such as creek beds, parks, gardens, or street landscaping; or

(d) Land use patterns, including mixed or unique uses or activities.

6. The development standards proposed to be applied to the subdistrict should encourage the retention of the general character and appearance of existing development in the district.

c. MODIFICATIONS OF OTHERWISE APPLICABLE DEVELOPMENT STANDARDS

1. Each NPO subdistrict shall identify, with specificity, the development, form, or design standards to be applied to all new construction and expansion of existing structures. Aspects of development that the standards may address include, but are not limited to, the following, in accordance with state law:

(a) Uses allowed or prohibited;

(b) Lot size;

(c) Location of proposed buildings or additions;

(d) Setbacks or required yard depths;

(e) Building height;

(f) Building size (for principal and accessory structures);

(g) Building orientation;

(h) Exterior building material and colors;

(i) Building roof line and pitch;

(j) Building foundation treatment;

(k) Landscaping and screening;

(l) Impervious surface cover;

(m) Paving requirements or limitations;

(n) Exterior lighting;

(o) Required features on a front façade;

(p) Neighborhood character and compatibility;

(q) Views of or from specific locations;

(r) Porches; and

(s) Demolition of structures.

2. The City Council may approve additional development, form, or design standards addressing aspects of development not listed above.

(5) SUBDISTRICT STANDARDS

Reserved.

H. RIVER/STREAM OVERLAY (RSO) DISTRICT

(1) PURPOSE

The purpose of the River/Stream Overlay (RSO) District is to retain strips of land adjacent to streams and rivers in their natural vegetated, revegetated, or reforested state through the preservation of appropriate perennial vegetation, in order to minimize soil erosion, reduce the velocity of overland stormwater flow, trap sediment and soil eroded from cropland or land being developed, and limit other pollutants from entering the waterways.

(2) APPLICABILITY

The standards in this section shall apply to all development (farming is not considered development) and changing of conditions (e.g., timbering) adjacent to a perennial stream as defined below.

(3) DISTRICT BOUNDARIES

When development is planned, waterbodies shall be designated by a qualified individual certified to identify intermittent and perennial streams by the North Carolina Department of Environmental Quality (NCDEQ). The RSO District shall be comprised of the following areas:

a. PERENNIAL STREAM BUFFER

A minimum 50-foot undisturbed stream buffer (the "Buffer") shall be established on both sides of all perennial streams and on all sides of water impoundments that are fed by perennial streams. The size of a stream buffer shall be measured from the average annual stream bank and the buffer shall extend perpendicularly for a distance of 50 feet plus four times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percentage of slope for this distance shall serve as the determining factor; however, the maximum distance shall not exceed 120 feet from the edge of the stream bank.

b. INTERMITTENT STREAM BUFFER

A 20-foot undisturbed stream buffer shall be established on both sides of all intermittent streams and all sides of water impoundments that are fed by intermittent streams.

c. VEGETATED BUFFER

A vegetated buffer shall be established along all stream buffers. The vegetative setback shall be 20 feet from perennial stream buffers and 10 feet from intermittent stream buffers, measured from the buffer boundary landward in a direction perpendicular to the edge of the buffer. This setback requirement shall not be construed to reduce the underlying zoning district setback requirements.

(4) REPLACEMENT PROGRAM REQUIRED

Any applicant that proposes to disturb land within the RSO district shall include with the application for the permit or approval for the disturbance activity, a proposed replacement program for the revegetation of the disturbed area.

(5) BUFFER AND SETBACK STANDARDS

a. No development, including soil disturbing activities, shall occur within any stream buffer established in subsection (3) above, except the following:

1. Sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer.

2. Other overhead and/or underground utilities, roads, streets, bridges, or similar structures within dedicated rights-of-way. These structures shall cross the buffer as close to perpendicular as possible. For purposes of this subsection, a greenway shall not be considered a "structure."

3. Greenways, which are permitted within the buffer.

4. Projects that have been permitted through the US Army Corps of Engineers (USACOE).

5. Agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities, which may occur within the buffer. Such activities shall conform to all State and Federal regulations. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the state's forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission (NCSWCC).

6. Other agricultural activities not identified in this section that would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats are strongly discouraged and shall not occur unless the activities are:

(a) Consistent with an approved replacement program;

(b) Consistent with the North Carolina Sediment Control Law; and

(c) Coordinated with the North Carolina Wildlife Resources Commission's District 6 Biologist and the County Soil and Water District Representative.

b. Perennial vegetation shall be maintined within the vegetated setback required by subsection (3) above. No building or structure or part thereof shall be erected, established, or constructed within this setback.

c. All disturbed areas within the buffer and vegetated setback required by subsection (3) above, permitted or not, shall be revegetated with perennial vegetation as soon as practical after the disturbance in accordance with an approved replacement program (see subsection (4) above). Forested areas shall be reforested, to the extent practicable.

d. A progress report shall be submitted by the person disturbing land in the RSO District to the Planning Directotr within 60 days of approval of the replacement program. Two other reports may

be required at 120 and 180 days if the program is not completed. The first two reports shall explain what work has been completed and any results, as well as a time schedule for completion of the rest of the program. The final report shall document that the replacement program is completed. The site shall be regularly inspected by the Planning Director to assure activity and compliance. Any noncompliance shall be treated as a zoning violation and be subject to enforcement in accordance with Section 8.5, Enforcement Generally.

I. WATERSHED PROTECTION OVERLAY (WPO) DISTRICT

(1) PURPOSE

The purpose of these overlay districts is to implement the Water Supply Watershed Protection Act (the Act) (N.C.G.S. §§ 143 214.5 & 143 214.6). The Water Supply Watershed Protection Rules adopted by the North Carolina Environmental Management Commission (the "EMC") require that all local governments having land use jurisdiction within water supply watersheds adopt and implement water supply watershed protection ordinances, and maps. The City of Concord, the City of Kannapolis, the Town of Mount Pleasant, and Cabarrus County have adopted watershed protection overlay restrictions as part of their zoning ordinances. It is the intent of this section to continue these restrictions. While the restrictions previously codified separately in the zoning ordinances of Concord, Kannapolis, and Cabarrus County are combined herein and rewritten for clarity, it is the intent of this Ordinance to carry forth these regulations which previously existed, and which have been approved by the EMC.

(2) JURISDICTION

The provisions of this Ordinance shall apply within the areas designated within the following watershed overlay districts as shown on the Zoning Map. All explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.

(3) ESTABLISHMENT

The watershed overlay zones listed in this subsection have been established by the City of Concord, the City of Kannapolis, Town of Mount Pleasant, and Cabarrus County. These overlay zoning districts are also established and continued in effect by this Ordinance. Table 3.8.I(3): Watershed Overlay Districts, lists the watershed protection districts, the watershed classification, and the jurisdiction within which the watershed districts are established. The boundaries of the watershed overlay districts are identified on the Zoning Map.

Table 3.8.I(3): Watershed Overlay Districts

Watershed	Classification	Jurisdiction
Coddle Creek Reservoir	WS-II CA	Cabarrus County
Coddle Creek Reservoir	WS-II BW	Cabarrus County
Dutch Buffalo Creek	WS-II CA	Cabarrus County
Dutch Buffalo Creek	WS-II BW	Cabarrus County
Lake Concord	WS-IV CA	Cabarrus County, City of Concord & City of Kannapolis
Lake Concord	WS-IV PA	City of Kannapolis
Lake Fisher	WS-IV CA	Cabarrus County & City of Kannapolis
Lake Fisher	WS-IV PA	City of Kannapolis
Lake Kannapolis	WS-III CA	City of Kannapolis

Table 3.8.I(3): Watershed Overlay Districts

WATERSHED	CLASSIFICATION	JURISDICTION
Lake Kannapolis	WS-III BW	City of Kannapolis
Tuckertown Reservoir	WS-IV PA	Cabarrus County
NOTES: "CA" denotes "Critical Area" "PA" denotes "Protected Area" "BW" Balance of Watershed"		

(4) INTERPRETATION OF BOUNDARIES

a. Subject to subsection b below, the Planning Director is authorized to interpret the boundaries of the Watershed Overlay districts in accordance with Section 1.7.C, Interpretation of Zoning Map Boundaries.

b. The Planning and Zoning Commission may, in carrying out its plan review authority under this Ordinance, adjust the boundary of any Watershed Overlay District to fit existing or proposed streets, lot lines or other features provided that such adjustments are agreed to by the landowner(s) involved and provided that any such adjustment is made with no loss of total area in the affected Critical Area of the Watershed Overlay District.

(5) ADJUSTMENT OF BOUNDARIES

a. A landowner may request that the Planning and Zoning Commission make a determination as to whether a property or portion of a property that is shown on the Zoning Map as lying within a Watershed Overlay District actually lies outside the drainage area of the applicable watershed. After receiving such a request, the commssion shall make a determination as to whether the property or portion of property identified in the request lies outside the drainage area of the applicable watershed. The commission's determination shall be based on actual field conditions of the property as determined by topographical conditions. In making its determination, the commission may require the landowner to produce relevant expert testimony and exhibits.

b. If the Planning and Zoning Commission determines that all or a portion of a property actually lies outside the drainage area of the applicable watershed in accordance with subsection a above, the commission shall transmit its determination to the Planning Director, who shall intiate a Zoning Map amendment in accordance with Section 2.5.A(2), Zoning Map Amendment, to amend the MPO district boundaries consistent with the commission's determination. All proposed modifications of the Watershed Overlay District boundary shall be approved by the Environmental Management Commission or its designee prior to approval of the admended boundary by the Planning and Zoning Commission.

(6) GENERAL PROVISIONS APPLICABLE TO ALL WATERSHED OVERLAY DISTRICTS

The following provisions apply to all Watershed Overlay Districts. These provisions and the provisions contained in the Individual Watershed Overlay Districts are designed to protect the water quality of the Water Supply Watersheds that lie within the jurisdiction of this Ordinance and to implement the rules adopted by the North Carolina Environmental Management Commission (the "EMC") for the classified watersheds in accordance with state law.

a. DENSITY AVERAGING

When all of the following conditions are met, two noncontiguous lots, neither of which is publicly held land, may be treated together for compliance with the maximum development intensity of Table 3.8.I(8). Publicly held land includes but is not limited to dedicated drainage and open space, parkland, or other land obtained for watershed protection by a public agency, or land otherwise protected from development.

1. Parcel pairs being submitted for approval shall be submitted as a single proposal and must be within the zoning jurisdiction of the City.

2. The maximum development intensity of the paired parcel averaged-density development shall not exceed the development intensity that is permitted if the parcels are developed separately. The paired parcels shall be located within the same watershed and classification (Critical Area, Protected Area or Balance of Watershed).

3. The paired parcels may include or be developed for residential or non-residential purposes.

4. Buffers shall at least comply with the appropriate minimum City water supply watershed protection standards.

5. The portion of the paired parcels which is not developed as part of the paired parcel, but that is being averaged in the land being evaluated to comply with the maximum development intensity, shall remain in an undisturbed vegetated or natural state and be placed in permanent conservation through a metes and bounds description on a recorded plat. The protected area shall be identified for protection on the owner's covenants and individual deed which shall be irrevocable. It shall be noted on the plat that the City shall reserve the right to make periodic inspections to ensure compliance.

6. A density averaging certificate (DAC) shall be obtained from the Watershed Review Board to ensure that both parcels comply with the standards of this section and this Ordinance, and that potential owners have a record of how the watershed regulations were applied to the paired parcels. Only the owner(s) of both of the paired parcels may submit the application for the DAC. A site plan for both of the parcels showing the built-upon area as well as the protected area, shall be submitted and approved as part of the DAC. If the DAC is granted, no change in the approved plan shall be made unless the DAC is amended by the Watershed Review Board. Upon issuance of a DAC, one copy shall be forwarded to the NCDEQ. The approved plan, recorded plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the paired parcels shall be included with the DAC.

7. The area that is to remain undeveloped shall be recorded in the deed for the parcel to which it applies. The DAC shall be recorded in the deed for each of the parcel in the parcel pair. Both the undeveloped area and the DAC shall be noted on the plat that applies to each parcel.

8. Paired parcel averaged-density developments that comply with the low-density option development requirements shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

9. No parcel for which a watershed protection variance is granted, or would be required, may be included as part of a parcel pair.

10. The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this section, and that the proposed agreement assures protection of the public interest.

11. Compliance with the above criteria shall be evidence that the paired parcels are consistent with the orderly and planned distribution of development throughout the watershed.

b. The construction of new roads and bridges and non residential development should minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and maximize the utilization of stormwater Best Management Practices. Where possible, roads should be located outside of critical areas and watershed vegetated conveyance areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

c. All development activities within Watershed Overlay Districts, in addition to those activities specifically regulated by these provisions, are subject to the standards, usage conditions, and other regulations contained in the Rules and Requirements of the Surface Water Supply Protection Rules adopted by the EMC.

d. A vegetative buffer from perennial waters shall be provided in accordance with the following requirements:

1. A minimum100 foot vegetative buffer is required for all new development activities that exceed the low-density option; otherwise, a minimum 30 foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.

2. Desirable artificial streambank or shoreline stabilization is permitted.

3. No new development is allowed in the setback except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

e. Where otherwise permitted in the underlying zoning district(s), cluster subdivisions are allowed on a project by project basis in accordance with the following standards:

1. The overall density of the project complies with the density requirements of this Ordinance;

2. The appropriate vegetative buffer is provided in accordance with subsection d above;

3. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, and maximize the flow length through vegetated areas;

4. Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainage ways;

5. The remainder of the tract remains in vegetated or a natural state;

6. The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds and;

7. Cluster development shall transport stormwater runoff from the development by vegetated conveyances, to the maximum extent practicable.

f. All development in Watershed Overlay Districts shall, to the maximum extent practical, minimize built upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts.

g. Existing development, as defined in this Ordinance, is not subject to the requirements of the overlay provisions. Expansions to structures classified as existing development must meet the requirements of these provisions, provided however, the built upon area of the existing development

is not required to be included in the density calculations. In determining expansions to existing development, the maximum permitted additional built upon area is derived by multiplying the area of the portion of the property that is not built upon by the appropriate percent built upon limitation for the Overlay District in which the property is located.

h. Any existing building or built upon area not in conformance with the limitations of these provisions that has been damaged or removed for any reason may be repaired and/or reconstructed, provided:

1. The repair or reconstruction is initiated within 12 months and completed within two years of such damage or removal;

2. The total amount of space devoted to build upon area shall not be increased;

3. The repair or reconstruction is otherwise permitted under the provisions of this Ordinance; and

4. No activity, situation, structure or land use shall be permitted or allowed to operate within a watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate onsite sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

i. The Planning Director may require such information on a zoning clearance permit and a site plan or subdivision plan applications, including density/built upon area calculations, as is deemed necessary to determine compliance with Watershed Overlay District provisions.

j. The Planning Director may, prior to the issuance of any permit in a Watershed Overlay District, require evidence of a valid sedimentation control permit or evidence satisfactory to the Planning Director that no permit is required.

k. The Planning Director shall maintain records of the administration of the Watershed Protection Overlay District regulations and shall submit any modifications of the regulations to the Division of Energy, Mineral and Land Resources (DEMLR). The Planning Director shall also maintain a record of watershed protection variances issued and shall provide the record or portions of the record to DEMLR upon request. The annual report shall contain the record of each variance granted by the Board of Adjustment during the previous calendar year and shall be submitted on or before January 1 of the following year.

(7) PROHIBITED USES/ACTIVITIES

Permitted uses shall be those permitted within the underlying zoning districts in Table 4.2.B(5): Principal Use Table, provided, however, that the uses/activities listed in Table 3.8.I(7) are prohibited.

Table 3.8.I(7): Prohibited Uses

DISTRICT(S)	PROHIBITED USES/ACTIVITIES
Coddle Creek Reservoir WS-II CA, Dutch Buffalo Creek WS-II CA	• New landfills • New permitted residual land application • New permitted petroleum contaminated soils sites • New NPDES Individual Permit domestic treated wastewater discharge • New NPDES Individual Permit industrial treated wastewater discharge • Non-process industrial waste • New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0127

Table 3.8.I(7): Prohibited Uses

DISTRICT(S)	PROHIBITED USES/ACTIVITIES
	• Sewage [1] • Industrial waste [1] • Other wastes [1]
Coddle Creek Reservoir WS-II BW, Dutch Buffalo Creek WS-II BW	• New NPDES Individual Permit domestic treated wastewater discharge • New NPDES Individual Permit industrial treated wastewater discharge • Non-process industrial waste • New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0127 • Sewage [1] • Industrial waste [1] • Other wastes [1]
Lake Concord WS-IV CA, Lake Fisher WS-IV CA, Tuckertown Reservoir WS-IV-CA	• New landfills • New permitted residual land application • New permitted petroleum contaminated soils sites • Sewage [1] • Industrial waste [1] • Other wastes [1]
Lake Concord WS-IV PA, Lake Fisher WS-IV PA	• Sewage [1] • Industrial waste [1] • Other wastes [1]
Lake Kannapolis WS-III CA	• New landfills • New permitted residual land application • New permitted petroleum contaminated soils sites • New NPDES Individual Permit domestic treated wastewater discharge • New NPDES Individual Permit industrial treated wastewater discharge [2] • New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0127 • Sewage [1] • Industrial waste [1] • Other wastes [1]
Lake Kannapolis WS-III BW	• New NPDES Individual Permit industrial treated wastewater discharge [2] • New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0127 • Sewage [1] • Industrial waste [1] • Other wastes [1]

NOTES:
[1] Only allowed if specified in 15A NCAC 02B .0104.
[2] Except non-process industrial discharges are allowed.
"CA" denotes "Critical Area"
"PA" denotes "Protected Area"
"BW" Balance of Watershed"

(8) DEVELOPMENT STANDARDS

a. RESIDENTIAL DENSITY & BUILT-UPON AREA

Residential development activities shall comply with the minimum lot size for the applicable underlying zoning district. Residential density shall not exceed that permitted for the corresponding Watershed Overlay District in one of either column B or column C in Table 3.8.I(8). As an option to compliance with these residential density limitations, maximum built-upon area may be used instead. In such cases, the development project shall not exceed the built-upon area in column E in Table 3.8.I(8) for each Watershed Overlay District on a project-by project basis. Use of the built-upon area method shall not be permitted in either the Coddle Creek Reservoir WS-II Critical Area or the Dutch Buffalo Creek WS-II Critical Area.

b. NON-RESIDENTIAL LOT SIZE AND BUILT UPON AREA

Non-residential development activities shall comply with the minimum lot size for the applicable underlying zoning district. Notwithstanding this requirement, individual non-residential development projects shall not exceed the maximum build upon area established in Table 3.8.I(8) for each Overlay District

c. LAKE CONCORD AND LAKE FISHER

Only development activities within the jurisdiction of the City in the Lake Concord and Lake Fisher Water Supply Watersheds that require a sedimentation permit are subject to the maximum development intensity standards in Table 3.8.I(8).

Table 3.8.I(8): Maximum Development Intensity

	Low Density				High Density [1]
(A) District	(B) Minimum Lot Size	(C) Minimum Land Required Per Dwelling Unit	(D) Maximum Density (Dwelling Units/Acre)	(E) Maximum Build-Upon Area	Maximum Built-Upon area – All Types
Coddle Creek Reservoir WS-II CA	Determined by underlying zoning district, provided the limitations of Column C or D of this Table are complied with.	3 acres	0.33	N/A	6% to 24%
Coddle Creek Reservoir WS-II BW		1 acre	1.0	12%	12% to 30%
Dutch Buffalo Creek WS-II CA		2 acres	0.5	N/A	6% to 24%
Dutch Buffalo Creek WS-II BW		1 acre	1.0	12%	12% to 30%
Lake Concord WS-IV CA		20,000 sf	2.0	24%	24% to 50%
Lake Concord WS-IV PA		20,000 sf	2.0	24%	24% to 70%
Lake Fisher WS-IV CA		20,000 sf	2.0	24%	24% to 50%
Lake Fisher WS-IV PA		20,000 sf	2.0	24%	24% to 70%
Kannapolis Lake WS-III CA		40,000 sf	1.0	12%	12% to 30%
Kannapolis Lake WS-III BW		20,000 sf	2.0	24%	24% to 50%
Tuckertown Reservoir WS-IV CA		20,000 sf	2.0	24%	24% to 50%

NOTES:
[1] In accordance with 15A NCAC 02B .0624
"CA" denotes "Critical Area"
"PA" denotes "Protected Area"
"BW" Balance of Watershed"

(9) ADDITIONAL DEVELOPMENT STANDARDS FOR INDIVIDUAL OVERLAY DISTRICTS

a. CODDLE CREEK RESERVOIR WS-II CA AND DUTCH BUFFALO CREEK WS-II CA

A 150-foot vegetative buffer shall be maintained from the normal pool level on all property adjoining the reservoir. No permanent structures shall be permitted within this buffer area.

b. LAKE CONCORD WS-IV PA, LAKE FISHER WS-IV PA, AND KANNAPOLIS LAKE WS-III BW

1. Residential Development Activities

Residential development activities within the jurisdiction of the City in the Protected Area which require a sedimentation permit, and which are not required to use, or which do not use, a curb and gutter system, shall not exceed 3 dwelling units per acre or, optionally, 36 percent built-upon area.

2. Special Intensity Allocation (SIA)

(a) Notwithstanding the restrictions established by Table 3.8.I(8) and subsection 1 above, new non-residential development may be established with up to 70 percent of built-upon area when approved as a Special Intensity Allocation (SIA). The Watershed Review Board is authorized to approve SIAs consistent with the provisions of this section. The Planning Director shall maintain a record of the total acreage within each overlay district that is used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation. For purposes of this subsection, the total areas that can be allocated within each district area shall be as follows:

1. Lake Fisher WS-IV PA: 152.64 acres
2. Lake Concord WS-IV PA: 192.90 acres
3. Kannapolis Lake WS-III BW: 46.70 acres.

(b) Applicants requesting a SIA shall present their request to the Planning Department 30 days prior to the next available Planning Commission meeting. Projects must be presented in the form of a SIA site plan, prepared by a professional engineer, and must minimize built-upon surface area, direct stormwater away from surface waters and incorporate BMPs to minimize water quality impacts. All property subject to a request for a SIA must be uniformly zoned.

(c) The right to develop an SIA shall terminate with the loss of the right to develop due to the expiration of a zoning compliance permit or building permit. In such cases, allocated acreage or unused allocated acreage shall be returned to the unallocated total acreage eligible for allocation.

(d) The percentage of built-upon area allocated as an SIA shall be approved by the Watershed Review Board and shall be determined by determining the special intensity allocation points applicable to the project in Table 3.8.I(9)b.2(e): Special Intensity Allocation Point System, and applying the allowance corresponding to the points in Table 3.8.I(9)b.2(d): Potential Impervious Allowance.

(e) In no case shall the built-upon area of an SIA exceed the built-upon limitations of the underlying zoning district.

Table 3.8.I(9)b.2(d): Potential Impervious Allowance

Special Intensity Allocation Points	Impervious Allowance
100-149 points	40 percent
150-199 points	50 percent
200-249 points	60 percent
More than 249 points	70 percent

Table 3.8.I(9)b.2(e): Special Intensity Allocation Point System

CATEGORIES USED FOR SIA CONSIDERATION	POTENTIAL POINTS
TAX BASE INCREASE [1]	
$200,000 – 500,000	15
$500,000 – 999,999	25
$1,000,000 – 1,999,999	50
$2,000,000 or more	75
FULL-TIME JOBS CREATED	
1 – 10	15
11 – 25	25
26 or more	50
COMMUNITY VALUE [2]	
Community Value	Up to 150
TYPE OF INDUSTRY	
Retail Trade	10
Office / Institutional	10
Industrial / Manufacturing	20
Research & Development / Medical	20
REVITALIZATION OF EXISTING DEVELOPMENT	
Revitalization of Existing Development	50
ENERGY REDUCTION / CONSERVATION MEASURES	
10-20% Increase in Landscaping (above UDO)	50
>20% Increase in Landscaping (Above UDO)	75
Bioretention Applications	75
LEED Certification	100
NOTES: [1] Estimated tax value of completed project. [2] Determined by Watershed Review Board.	

(10) WATERSHED REVIEW BOARD

The City of Kannapolis Planning and Zoning Commission shall serve as the Watershed Review Board (see Section 2.5.D(2), Variance – Watershed Protection). Members of the Watershed Review Board are subject to the same rules of procedure adopted for the Planning and Zoning Commission.

(11) VARIANCE PROCEDURE

The Planning and Zoning Commission shall grant variances from the specific requirements of the Watershed Overlay Districts in accordance with Section 2.5.D(2), Variance – Watershed Protection.

4. USE REGULATIONS

SECTION 4.1. GENERAL PROVISIONS **4-1**
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B. Compliance with Applicable State and Local Regulations 4-1

SECTION 4.2. PRINCIPAL USES **4-1**
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SECTION 4.3. ACCESSORY USES AND STRUCTURES **4-46**
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ARTICLE 4. USE REGULATIONS

SECTION 4.1. GENERAL PROVISIONS

A. ORGANIZATION OF THIS ARTICLE

Article 4 is organized into three sections:

(1) Section 4.2, Principal Uses, identifies the principal uses of land that are allowed in the various zoning districts and the type of permit or review required to establish them. It also establishes special standards applicable to particular principal uses.

(2) Section 4.3, Accessory Uses and Structures, identifies land uses and structures commonly allowed as accessory to principal uses in the various zoning districts and the type of permit or review required to establish them. It also establishes general standards applicable to all accessory uses and structures and special standards applicable to particular accessory uses and structures.

(3) Section 4.4, Temporary Uses and Structures, identifies land uses or structures allowed on a temporary basis and establishes general standards applicable to all temporary uses and structures and special standards that apply to particular temporary uses and structures.

B. COMPLIANCE WITH APPLICABLE STATE AND LOCAL REGULATIONS

Uses established in accordance with this article shall comply with all applicable state and local regulations, including but not limited to obtaining all required licenses, certificates, and other authorizations.

SECTION 4.2. PRINCIPAL USES

A. GENERAL

Table 4.2.B(5): Principal Use Table, identifies principal uses of land and specifies whether they are allowed by right, allowed subject to approval of a special use permit, or prohibited within each zoning district. It also references use-specific standards in Section 4.2.D, Standards Specific To Principal Uses, that are applicable to specific uses.

B. PRINCIPAL USE TABLE

(1) ORGANIZATION OF PRINCIPAL USES

Table 4.2.B(5): Principal Use Table, organizes allowable uses by use classifications, use categories, and use types as described in Section 4.2.C, Classification of Principal Uses. The use table provides a systematic basis for identifying and consolidating uses, distinguishing uses not explicitly listed in the table to determine whether a particular use is allowed in a particular zoning district, and accommodating future additions of new uses to the table.

(2) ABBREVIATIONS IN PRINCIPAL USE TABLE CELLS

Table 4.2.B(5): Principal Use Table, uses the following abbreviations to identify whether a principal use is allowed in a particular zoning district and the procedure required to establish the use:

P	**Permitted use.** A "P" in a cell of the table in a column other than a planned development district column indicates that the use in the left-most column in that row is allowed by right in the zoning district identified at the head of that column, subject to any use-specific standards referenced in the right-most column in that row. Permitted uses are subject to all other applicable requirements of this Ordinance. A "P" in a cell of the table in a planned development district column means that the use is allowed in the type of planned development district identified at the head of that column only if so specified in the PD Plan for the particular district, subject to all other applicable requirements of this Ordinance, unless expressly modified in the PD Plan or PD Agreement for the district (see Section 3.7.A(3)a, Planned Development (PD) Plan, and Section 3.7.A(3)b, Planned Development (PD) Agreement).
S	**Special use.** An "S" in a cell of the table indicates that the use in the left-most column in that row is allowed in the zoning district identified at the head of that column upon approval of a special use permit in accordance with Section 2.5.A(5), Special Use Permit. Uses requiring a special use permit are subject to all other applicable requirements of this Ordinance.
-	**Prohibited Use.** A " – " in a cell of the table indicates that the use in the left-most column in that row is prohibited in the zoning district identified at the head of that column

(3) REFERENCE TO USE-SPECIFIC STANDARDS

A particular use allowed as a principal use in a zoning district may be subject to additional standards that are specific to the particular use. The applicability of such use-specific standards is noted in the right-most column of Table 4.2.B(5): Principal Use Table, through a reference to standards in Section 4.2.D, Standards Specific To Principal Uses.

(4) UNLISTED USES

The Planning Director shall determine whether or not any use not explicitly listed in Table 4.2.B(5): Principal Use Table, is part of an existing use category or use type in accordance with Section 4.2.C(8), Interpretation of Unlisted Uses.

(5) PRINCIPAL USE TABLE

Table 4.2.B(5): Principal Use Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
Agricultural/Rural Uses																									
All Agricultural/Rural Uses																									
Agriculture	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	P	-	P	4.2.D(2)a.1
Community garden	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	4.2.D(2)a.2
Equestrian center	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Feed lot	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Forestry	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	4.2.D(2)a.3

Table 4.2.B(5): Principal Use Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
Livestock auction sales	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	
Rural retreat	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Swine farm	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Residential Uses																									
Household Living																									
Duplex	-	-	-	-	P	P	P	P	S	S	S	-	-	-	-	-	-	-	P	P	-	-	P	-	
Live-work unit	-	-	-	-	-	-	P	P	P	P	P	P	S	S	P	P	-	-	P	P	-	-	-	-	4.2.D(3)a.1
Manufactured home	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.2.D(3)a.2
Multifamily dwelling	-	-	-	-	-	-	P	P	P	P	P	P	P	P	S	S	-	-	P	P	P	-	P	-	5.7.D
Pocket neighborhood development	-	-	-	-	-	-	P/S	P/S	P/S	-	-	-	-	-	-	-	-	-	P/S	P/S	-	-	-	-	4.2.D(3)a.4
Single-family attached dwelling	-	-	-	-	P	P	P	P	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	
Single-family detached dwelling	P	P	P	P	P	P	P	S	P	-	-	-	-	S	-	-	-	-	P	P	-	-	-	-	
Tiny house neighborhood development	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	4.2.D(3)a.5
Townhouse	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-	-	-	-	P	P	-	-	P	-	5.7.D
Triplex	-	-	-	-	P	P	P	P	S	S	S	-	-	-	-	-	-	-	P	P	-	-	P	-	5.7.D
Group Living																									
Boarding house	S	S	S	S	S	S	S	S	S	P	P	P	P	P	S	S	-	-	P	P	P	-	-	-	4.2.D(3)b.1
Cooperative house	S	S	S	S	S	S	S	S	S	P	P	P	P	P	S	S	-	-	P	P	P	-	-	-	
Dormitory	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	-	-	-	-	-	-	-	-	4.2.D(3)b.2
Family care home	P	P	P	P	P	P	P	P	S	S	S	S	S	S	P	-	-	-	P	P	P	-	-	-	
Residential care facility	-	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	4.2.D(3)b.3
Civic/Institutional Uses																									
Communication																									
Broadcasting studio	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	S	P	P	P	P	-	P	
Wireless support structure, New or substantial	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.2.D(4)a.1

Table 4.2.B(5): Principal Use Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
modification less than 65 feet tall																									
Wireless support structure, New or substantial modification 65 feet or taller	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	4.2.D(4)a.1
Collocation of antenna on existing structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P`	P	P	4.2.D(4)a.1
Small/Micro wireless facility in a right-of-way	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Small/Micro wireless facility outside of a right-of-way	P	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Community Service																									
Animal shelter	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	P	-	-	-	
Childcare center	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	4.2.D(4)b.1
Civic, social, or fraternal organization	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	
Community recreation center	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	-	P	P	P	-	-	P	
Correctional institution	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	S	-	-	-	-	-	-	
Cultural facility	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	
Government offices	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Post office	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	S	
Public assembly, Indoor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S	P	P	P	-	-	P	4.2.D(4)b.2
Education																									
College or university	S	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	S	S	-	P	P	-	P	
School, Technical or trade	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	S	P	P	P	P	-	P	
School, Private or Charter	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S	-	S	S	S	-	-	P	
School, Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	-	-	P	
Funeral and Mortuary Services																									
Crematory	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	P	-	-	S	
Funeral home or mortuary	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	

Table 4.2.B(5): Principal Use Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
Health Care																									
Hospital	-	-	-	-	-	-	-	-	-	P	P	-	P	P	P	P	P	P	P	P	P	P	-	P	
Medical or dental laboratory	-	-	-	-	-	-	-	-	-	P	P	-	-	P	P	P	P	P	P	P	P	P	-	P	
Medical or dental office/clinic	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	
Nursing home	S	S	S	S	S	S	S	S	-	S	S	S	S	P	P	P	-	-	P	P	P	-	-	P	4.2.D(4)c.1
Parks and Open Space																									
Arboretum or botanical garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Cemetery	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	S	-	P	P	P	-	-	S	4.2.D(4)d.1
Dog park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Park or greenway	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Zoo	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	S	S	-	-	S	S	-	-	
Transportation																									
Air transportation and support facility	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	
Commercial parking (as principal use)	-	-	-	-	-	-	-	-	-	P	P	P	P	P	S	P	S	S	-	-	P	P	-	P	4.2.D(4)e.1
Passenger terminal, Surface transportation	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	P	-		-	-	-	P	-	P	
Rail transportation support facility	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	
Utilities																									
Solar energy collection facility, Large scale	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	-	-	-	4.2.D(4)f.1
Utility facility, Major	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	
Utility facility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Commercial Uses																									
Animal Care																									
Kennel	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	P	-	P	-	-	P	4.2.D(5)a.1
Pet care service	P	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	-	-	P	4.2.D(5)a.1
Veterinary hospital or clinic	S	-	-	-	-	-	-	-	S	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	4.2.D(5)a.1

Table 4.2.B(5): Principal Use Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
																									4.2.D(5)a.2
Business Services																									
Business service center	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P		P	P	-	P	
Catering establishment	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	
Conference or training center	-	-	-	-	-	-	-	-	-	P	-	-	-	-	P	P	P	-	-	-	P	-	-	P	4.2.D(5)a.2
Data center	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	P	-	P	
Office, Contractor	-	-	-	-	-	-	-	-	-	P	P	-	-	-	P	P	P	P	-	-	P	P	-	P	
Office, General business or professional	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Eating or Drinking Establishments																									
Bar	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	S	-	-	P	P	-	-	-	-	4.2.D(5)c.1 4.2.D(5)c.2
Microbrewery	-	-	-	-	-	-	-	-	S	P	P	P	P	P	-	P	P	-	P	P	P	-	-	-	4.2.D(5)c.1 4.2.D(5)c.3
Nightclub	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	S	-	-	-	-	-	-	-	-	4.2.D(5)c.1 4.2.D(5)c.2
Restaurant	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	-	P	P	P	P	-	P	4.2.D(5)c.1
Restaurant, Carryout	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	P	-	P	P	P	-	-	P	4.2.D(5)c.1 4.2.D(5)c.4
Personal Services																									
Studio/School	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	
Dry-cleaning service	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	
Fortune telling establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	-	4.2.D(5)d.1
Laundry, Self-service	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	P	-	-	P	P	P	P	-	P	
Personal or household goods repair	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	P	-	P	P	P	P	-	P	
Personal grooming or well-being service	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	-	P	P	P	P	-	P	

Table 4.2.B(5): Principal Use Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
Tattoo or body-piercing establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	-	
Recreation/ Entertainment																									
Amusement park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	-	
Art gallery	S	S	S	S	S	S	S	S	S	P	P	P	P	P	S	P	-	-	P	P	P	P	-	P	
Electronic Gaming Operation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	-	4.2.D(5)e.1
Event Cent	-	-	-	-	-	-	-	-	S	P	-	-	S	S	P	P	P	-	P	S	P	S	-	P	
Golf course, Public or private	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	P	-	-	P	-	-	-	-	P	
Hunting or fishing club	S	S	S	S	S	S	S	S	S	P	P	P	P	-	-	P	-	-	-	-	-	-	-	P	
Outdoor banquet facility	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	4.2.D(5)e.2
Performing arts center	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-	P	P	P	-	-	P	
Recreation facility, Indoor	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	-	P	P	P	P	-	P	
Recreation facility, Outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	-	P	
Sexually-Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	-	4.2.D(5)e.3
Shooting range, Indoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	
Stadium, arena, or amphitheater	-	-	-	-	-	-	-	-	-	-	-	S	S	P	-	-	-	-	P	-	P	-	-	-	
Retail Sales and Services																									
Bank or financial institution	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	
Check cashing, auto title, or payday loan business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	-	-	4.2.D(5)f.1
Consumer goods establishment	-	-	-	-	-	-	-	S	P	P	P	P	P	P	-	P	-	-	P	P	P	P	-	P	
Farmers' market (as a principal use)	P	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	-	P	P	P	-	-	-	4.2.D(5)f.2
Gas and heating oil sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	P	P	-	-	
Grocery store	-	-	-	-	-	-	-	-	S	P	P	P	P	P	-	P	-	-	P	P	P	P	-	P	
Liquor Sales (ABC Store)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	P	P	-	-	
Pawnshop	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	S	-	-	-	-	P	-	-	S	
Prefabricated building sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	4.2.D(5)f.3

Table 4.2.B(5): Principal Use Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
Self-service storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	S	P	-	-	P	-	-	-	4.2.D(5)f.4
Shopping center	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-	P	-	P	P	-	P	4.2.D(5)f.5
Tobacco and vape products store	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-	P	-	P	P	-	P	
Vehicle Sales and Services																									
Car wash	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	4.2.D(5)g.1
Commercial fuel depot	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	P	-	-	-	
Commercial vehicle sales and rentals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	
Commercial vehicle service and repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	-	-	-	4.2.D(5)g.2
Personal vehicle sales and rentals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	4.2.D(5)g.3
Personal vehicle service and repair	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	-	-	-	-	P	-	-	-	
Towing service	-	-	-	-	-	-	-	-	-		-	-	-	-	-	P	P	-	-	-	-	-	-	-	4.2.D(5)g.4
Vehicle fueling station	-	-	-	-	-	-	-	-	P	P	P	P	P	S	S	P	-	-	P	-	P	S	-	P	4.2.D(5)g.5
Visitor Accommodations																									
Bed and breakfast establishment	S	S	S	S	S	S	S	S	P	P	P	P	P	P	-	P	-	-	P	P	P	-	-	P	4.2.D(5)h.1
Hotel or motel	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-	P	P	P	P	-	-	
Short-term rental (as a principal use)	-	-	-	-	S	S	S	S	P	P	P	P	P	P	P	P	-	-	P	P	P	-	-	-	4.2.D(5)h.2
Industrial Uses																									
Extraction																									
All extraction uses	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	4.2.D(5)i
Industrial Services																									
Contractor's yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	P	P	-	-	
Fleet terminal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-	
Industrial launderers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	P	-	P	
Industrial services establishment, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	-	P	-	-	-	

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Principal Use Category or Type	AG	Residential							Mixed-Use						Non-residential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-	PD-C	CD	CD-R	C-1	
Publishing facility	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	P	-	P	
Manufacturing, Assembly, or Fabrication																									
Artisan production	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	
Manufacturing, assembly, or fabrication, Light	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-	-	P	P	-	-	
Manufacturing, assembly, or fabrication, Medium	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	S	-	-	
Manufacturing, assembly, or fabrication, Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	4.2.D(5)j.1
Warehousing, Freight Movement, and Wholesale Sales																									
Motor freight facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-	4.2.D(5)k.1
Outdoor storage (as a principal use)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-	4.2.D(5)k.1
Small-scale aerial distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	S	-	-	
Warehouse distribution and storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	P	-	-	P	P	-	-	4.2.D(5)k.1
Wholesale, Florist and nursery supply	S	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	P	P	-	-	4.2.D(5)k.1
Wholesale, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	P	P	-	-	4.2.D(5)k.1
Wholesale, Heavy or hazardous materials	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	P	-	-	-	4.2.D(5)k.1
Waste-Related Uses																									
Composting facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-	
Hazardous waste collection and disposal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	4.2.D(5)l.1
Junk/Salvage yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	S	-	-	-	-	-	-	4.2.D(5)l.2
Recycling collection center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	P	P	-	-	
Recycling plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	
Sewage treatment facility, Private	S	S	S	S	S	S	S	S	-	-	-	-	-	-	S	S	S	S	-	-	P	-	-	-	
Solid waste collection and disposal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	

C. CLASSIFICATION OF PRINCIPAL USES

(1) PURPOSE

This section is intended to provide a framework for identifying, describing, categorizing, consolidating, and distinguishing land uses in a way that makes it easier to determine whether a particular use, activity, or combination of activities should be considered a use listed as an allowable principal use in the use table in Section 4.2.B, Principal Use Table, or is subject to other use-specific provisions in this Ordinance.

(2) STRUCTURE OF PRINCIPAL USE CLASSIFICATION SYSTEM

The following three-tiered hierarchy of use classifications, use categories, and use types is used to organize allowable uses listed in Table 4.2.B(5): Principal Use Table, and the use-specific standards set out in Section 4.2.D, Standards Specific To Principal Uses.

a. USE CLASSIFICATIONS

Use Classifications are very broad and general (e.g., Residential Uses, Civic/Institutional Uses, Commercial Uses, and Industrial Uses).

b. USE CATEGORIES

Use Categories represent major subgroups of the use classifications that have common functional, product, or physical characteristics, such as the type and amount of activity, type of occupants or users/customers, or operational characteristics. For example, the Commercial Uses classification is divided into multiple use categories, like Recreation/Entertainment and Retail Sales and Services. Each use category is described in terms of the common characteristics of included uses (including common or typical accessory uses), examples of common use types included in the category, and, for a number of use categories, exceptions—i.e., those uses that might appear to fall within the use category but are included in another use category.

c. USE TYPES

Use Types identify specific principal land uses whose characteristics are considered to fall within the various use categories. For example, self-service laundry and personal grooming or well-being services are use types within the Personal Services category. Use types are defined in Article 10: Definitions (listed alphabetically with other defined terms).

(3) AGRICULTURAL/RURAL USES

The Agriculture/Rural Uses category includes use types related to the production of field crops, fruits, vegetables, ornamental and flowering plants, and the breeding, raising, or keeping of livestock, poultry, swine, bees, or other animals for food or other marketable products. This category also includes use types that provide support and services to agricultural uses or are otherwise closely related to agricultural production and/or rural character in their form and function. This use category does not include the processing of animal or plant products for wholesale or retail sale purposes off the site of where the agricultural product is grown or raised, which is generally considered an industrial use. Accessory uses may include offices, storage areas, barns, irrigation systems, and repair facilities related to the agricultural or forestry activities.

(4) RESIDENTIAL USES

a. HOUSEHOLD LIVING USES

The Household Living category includes use types providing for the residential occupancy of a dwelling unit by a single family. Tenancy is generally arranged on a month-to-month or longer

basis. Use types include duplexes, live-work units, manufactured homes, multifamily dwellings, pocket neighborhood developments, single-family detached dwellings, tiny house neighborhood developments, townhouses, and triplexes. This use category does not include residential use types that generally involve some level of managed personal care for a larger number of residents (e.g., boarding house), which are categorized as the Group Living category. Accessory uses common to Household Living Uses include recreational activities, raising of domestic pets, gardens, swimming pools, and parking of the occupants' vehicles. Some accessory uses (e.g., accessory dwelling units, home occupations) are subject to additional regulations (see Section 4.3, Accessory Uses and Structures)

b. GROUP LIVING USES

The Group Living category includes use types providing for the residential occupancy of a group of living units by people who sometimes (but not always) do not constitute a single family or housekeeping unit and may receive some level of personal care. Individual living units often consist of a single room or group of rooms without cooking and eating facilities (even though some do have such facilities), but unlike a hotel, motel, or short-term rental, are generally occupied on a monthly or longer basis. Use types include boarding houses, cooperative houses, dormitories, family care homes, and residential care facilities. Although family care homes include household living and health care components, they are categorized as a group living use because of their focus on the present or future provision of personal care to people and their integration of various uses as single cohesive development. This category does not include use types where persons generally occupy living units for periods of less than 30 days, which are categorized in the Visitor Accommodation category. It also does not include use types where residents or inpatients are routinely provided more than modest health care services (e.g., nursing homes), which are categorized in the Health Care category. Accessory uses common to group living uses include recreational facilities, administrative offices, and food preparation and dining facilities.

(5) CIVIC/INSTITUTIONAL USES

a. COMMUNICATIONS USES

The Communication category includes uses and facilities providing regional or community-wide communications services, such as wireless communications, radio and television broadcasting, and similar uses. Services may be publicly or privately provided and may include on-site personnel. Use types include broadcasting studios, wireless support structures, and collocations of antenna on existing tower. Accessory uses may include offices, monitoring, storage areas, and data transmission equipment.

b. COMMUNITY SERVICE USES

The Community Service category includes use types primarily of a public, nonprofit, or charitable nature providing services to residents, students, and visitors in the City, which are distinguished by enhanced benefits to the general public (e.g., childcare, cultural, recreational, counseling, training, or religious services). Generally, such uses provide ongoing continued service on-site or have employees at the site on a regular basis. Use types include animal shelters; childcare centers; civic, social, and fraternal organizations; community recreation facilities; correctional institutions; cultural facilities; government offices; post offices; and indoor public assembly. This use category does not include private or commercial health clubs or recreational facilities, which are categorized in the Recreation/Entertainment category, or passenger terminals for public transportation services, which are categorized in the Transportation Use category. Accessory uses may include offices, meeting areas, food preparation and dining areas, health and therapy areas, and indoor and outdoor recreational facilities.

c. EDUCATION USES

The Education category includes use types such as public schools and private schools (including charter schools) at the elementary, middle, and high school levels that provide education meeting state requirements for curriculum, instruction, and assessment. This use category also includes university uses, and other institutions of higher learning such as vocational or trade schools that offer courses of general or specialized study leading to a degree or certification, and research facilities (operated by government or educational institutions). Accessory uses at schools may include offices, play areas, recreational and sport facilities, cafeterias, auditoriums, and before- or after-school day care. Accessory uses at colleges or universities may include offices, dormitories, food service, laboratories, health care facilities, recreational and sports facilities, theaters, meeting areas, maintenance facilities, and supporting commercial uses (e.g., eating or drinking establishments, bookstores).

d. FUNERAL AND MORTUARY SERVICE USES

The Funeral and Mortuary Services category consists of establishments that provide services related to the death of a human being or a pet animal. Use types include crematories and funeral homes and mortuaries.

e. HEALTH CARE USES

The Health Care category includes use types providing a variety of health care services, including surgical or other intensive care and treatment, various types of medical treatment and preventative care, nursing care, and diagnostic and laboratory services. Care may be provided on an inpatient, overnight, or outpatient basis. Use types include hospitals, medical or dental laboratories, medical or dental offices/clinics, and nursing homes. This category generally does not include use types that focus on providing personal care rather than medical care to residents, which are categorized in the Group Living category. Accessory uses may include food preparation and dining facilities, recreation areas, offices, meeting rooms, teaching facilities, hospices, maintenance facilities, staff residences, and limited accommodations for patients' families.

f. PARKS AND OPEN SPACE USES

The Parks and Open Space category includes use types focusing on open space areas largely devoted to natural landscaping and tending to have few structures, and which may include passive or limited active outdoor recreation. Use types include arboretums and botanical gardens, cemeteries, parks and greenways, and zoos. This category does not include athletic fields (unless part of a public park), golf courses, or other outdoor recreation uses (categorized in the Recreation/Entertainment category). Accessory uses may include caretaker's quarters, clubhouses, statuary, fountains, maintenance facilities, concessions, and parking.

g. TRANSPORTATION USES

The Transportation category includes use types providing vehicle parking and passenger transportation services. Use types include air transportation and support facilities, commercial parking (as a principle use), surface transportation passenger terminals, and rail transportation support facilities. This category does not include transit–related infrastructure such as bus stops and bus shelters (defined as minor utilities under the Utilities category). Accessory uses may include freight handling areas, concessions, offices, maintenance, limited storage, and minor fueling facilities.

h. UTILITIES USES

The Utility Uses category includes both major utilities, which are infrastructure services that provide regional or community-wide service, and minor utilities, which are infrastructure services that need to be located in or near where the service is provided. Services may be publicly or privately provided and may include on-site personnel. Accessory uses may include offices, monitoring, or storage areas.

(6) COMMERCIAL USES CLASSIFICATION

a. ANIMAL CARE USES

The Animal Care category includes use types related to the provision of veterinary services, general care, and boarding services for household pets and domestic animals. Use types include kennels, pet care services, and veterinary hospitals and clinics. This use category does not include animal shelters operated by a nonprofit organization, which are included in the Community Service category.

b. BUSINESS SERVICE USES

The Business Service category consists of establishments primarily providing routine business service functions for the day-to-day operations of other businesses and households. Use types include business service centers, catering establishments, conference or training centers, data centers, contractor offices, and general business and professional offices. This use category includes offices used for conducting professional, executive, management, and administrative functions of commercial entities, usually with limited contact with the general public, and generally focusing on the provision of business services, professional services (e.g., lawyers, accountants, planners, engineers, architects, government employees), or financial services (e.g., lenders, brokerage houses, tax preparers). It does not include offices that are a component of or accessory to a principal use in another use category, such as medical/dental offices (categorized in the Health Care Uses category), or banks or other financial institutions (categorized in the Retail Sales and Service Uses category). Accessory uses may include cafeterias, recreational or fitness facilities, incidental commercial uses, or other amenities primarily for the use of employees in the same business or office park.

c. EATING OR DRINKING ESTABLISHMENT USES

The Eating or Drinking Establishment Uses category consists of establishments primarily engaged in the preparation and serving of food or beverages for on- or off-premises consumption. Use types include bars, microbreweries, nightclubs, restaurants, and carryout restaurants. Accessory uses may include areas for outdoor seating, facilities for live entertainment, and valet parking services. Drive-through facilities may or may not be allowed and are subject to additional standards in accordance with Section 4.3, Accessory Uses and Structures.

d. PERSONAL SERVICES USES

The Personal Services category consists of establishments primarily engaged in providing frequent or recurrent needed services of a personal nature. Use types include studio/schools, dry-cleaning services, fortune telling establishments, self-service laundry, personal or household goods repair, personal grooming or well-being services, and tattoo and body-piercing establishments.

e. RECREATION/ENTERTAINMENT USES

The Recreational/Entertainment category includes use types providing indoor or outdoor facilities for recreation or entertainment-oriented activities by patrons or members. Use types include amusement parks, art galleries, public and private golf courses, hunting and fishing clubs, performing arts centers, indoor recreation facilities, outdoor recreation facilities, sexually-oriented businesses, indoor shooting ranges, and stadiums, arenas, and amphitheaters. It does not include recreational facilities that are accessory to parks (categorized in the Open Space category), or that are reserved for use by a particular residential development's residents and their guests (considered a community recreation facility in the Community Service category). Accessory uses may include offices, concessions, snack bars, and maintenance facilities.

f. RETAIL SALES AND SERVICES USES

The Retail Sales and Service Uses category includes use types involved in the sale, rental, and incidental servicing of goods and commodities that are generally delivered or provided on the

premises to a consumer. Use types include banks or other financial institutions; check cashing, auto title, and payday loan businesses; consumer goods establishments; farmers' markets; gas and heating oil sales; grocery stores; liquor sales (ABC stores); manufactured home sales; pawnshops; self-service storage; shopping centers; specialty food stores; and tobacco and vape products stores. This use category does not include sales or service establishments related to vehicles (categorized in the Vehicle Services and Sales category), establishments primarily selling supplies to contractors or retailers (categorized in the Wholesale category), the provision of financial, professional, or business services in an office setting (categorized in the Business Services category), or uses that provide personal services (categorized in the Personal Services category). Accessory uses may include offices, storage of goods, assembly or repackaging of goods for on-site sale, concessions, ATM machines, and outdoor display of merchandise.

g. VEHICLE SALES AND SERVICES USES

The Vehicle Sales and Services category includes use types involving the direct sales and servicing of motor vehicles (including automobiles, trucks, motorcycles, and recreational vehicles, as well as trailers) whether for personal transport, commerce, or recreation. Use types include commercial fuel depots, commercial vehicle sales and rentals, commercial vehicle service and repair, gas stations, personal vehicle sales and rentals, and personal vehicle services and repairs. Accessory uses may include offices, sales of parts, maintenance facilities, outdoor display of merchandise, and vehicle storage.

h. VISITOR ACCOMMODATIONS USES

The Visitor Accommodations category includes use types providing lodging units or rooms for short-term stays of typically less than 30 days for rent or lease. Use types include bed and breakfast establishments, hotels and motels, and short-term rentals (as a principal use). This use category does not include boarding or rooming houses, which are generally occupied for tenancies of a month or longer and are categorized in the Group Living Uses category. Accessory uses may include pools and other recreational facilities, restaurants, bars, limited storage, laundry facilities, gift shops, supporting commercial activities, meeting facilities, and offices.

(7) INDUSTRIAL USES CLASSIFICATION

a. EXTRACTION USES

The Extraction category is characterized by activities related to the extraction of naturally occurring materials.

b. INDUSTRIAL SERVICES USES

The Industrial Services category includes use types involving the maintenance, repair, or servicing of industrial, business, scientific, or consumer machinery equipment, products, or by-products. Firms that service consumer goods do so by mainly providing a centralized source of services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers come to the site. Use types include contractor's yards, data centers, fleet terminals, industrial launderers, general industrial services establishments, and publishing facilities. Accessory activities may include offices, parking, and storage.

c. MANUFACTURING USES

The Manufacturing category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, made for transfer to other plants, or made to order for firms or consumers. This use category includes artisan production and light, medium, and heavy manufacturing use types, based on the processes involved, the general extent of off-site impacts, and the extent of outdoor storage. Uses may include the display or sale of goods on-site, if they are a subordinate part of total sales. Relatively few customers come to the site. Accessory uses may

include limited retail sales and wholesale sales, offices, eating or drinking establishments, employee recreational facilities, warehouses, storage areas, repair facilities, truck fleets, and security and caretaker's quarters.

d. WAREHOUSING, FREIGHT MOVEMENT, AND WHOLESALE SALES USES

The Warehousing, Freight Movement, and Wholesale Sales category includes uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. There is little on-site sales activity with the customer present. Use types include warehouse distribution and storage, motor freight facility, outdoor storage (as a principal use), florist and nursery supply wholesale sales, general wholesale sales, and heavy or hazardous materials wholesale sales. Accessory uses may include offices, truck fleet parking, outdoor storage, maintenance areas, greenhouses (for plant nurseries), and repackaging of goods.

e. WASTE-RELATED USES

The Waste-Related Uses category includes use types receiving solid or liquid wastes from others for on-site disposal, storage, processing, or transfer to another location for processing or disposal, or uses that manufacture or produce goods or energy from the composting of organic material or reuse, recycling, or processing of scrap or waste material. Use types include composting facilities, hazardous materials collection and disposal, junk/salvage yards, recycling collection centers, recycling plants, private sewage treatment facilities, and solid waste collection and disposal. Accessory uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.

(8) INTERPRETATION OF UNLISTED USES

a. PROCEDURE FOR INTERPRETING UNLISTED USES

The Planning Director shall make a determination of whether a particular principal use or accessory use or structure not expressly listed in the use tables is allowable in a particular zoning district, as a permitted or special use, based on the standards in this section and in accordance with the procedures in Section 2.5.E(1), Interpretation.

b. STANDARDS FOR ALLOWING UNLISTED PRINCIPAL USES

The Planning Director shall interpret an unlisted principal use as a permitted use or special use in a particular zoning district only after finding that the nature, function, and duration of the use and the impact of allowing it in the zoning district are so similar to those of a use type or use category that is allowed in the zoning district that the unlisted use should be deemed allowed in the same manner (i.e., as a permitted use or special use) as the similar use type or use category and subject to the same use-specific standards. In making such interpretation, the Planning Director shall consider the relevant characteristics of the unlisted use relevant to those of listed and defined use types and/or of the use categories described in this section, the purpose and intent statements in this Ordinance concerning the zoning district, and the character of use types allowable in the zoning district. The relevant characteristics of the unlisted use that should be considered in making this interpretation include, but are not limited to, the following:

1. Actual or projected characteristics of each activity likely to occur as part of the unlisted use;
2. The type, size, orientation, and nature of buildings, and structures devoted to each activity;
3. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
4. Vehicles used and their parking requirements, including the ratio of the number of spaces required per unit area or activity;

5. Transportation demands, including the volume and frequency of trips generated to and from the site, the split of traffic volume among various means of transportation, and other characteristics of trips and traffic;

6. Relative amounts of sales from each activity;

7. The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building, and the predominant types of items stored;

8. Customer type for each activity;

9. How the use is advertised, including signage;

10. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;

11. Any special public utility requirements for serving the use, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and

12. The impact on adjacent lands created by the use, which should not be greater than that of other use types, allowed in the district.

c. INTERPRETATIONS OF USES NOT EXPRESSLY LISTED MADE AVAILABLE TO PUBLIC

Within a reasonable period of time after the Planning Director interprets a use or structure that is not expressly listed in accordance with this section, the interpretation shall be made available to the public in the office of the Planning Department during normal business hours, and placed on the Planning Department's website.

d. EFFECT OF ALLOWING USES NOT EXPRESSLY LISTED AS PERMITTED OR SPECIAL USE

On interpreting a use or structure not expressly listed as allowed in a district in accordance with subsection B above, and on finding that the use or structure is likely to be common or would lead to confusion if it remains not expressly listed, the Planning Director may initiate an application for a text amendment to this Ordinance in accordance with Section 2.5.A(1), Text Amendment, to expressly list the use as a permitted or special principal use, and to define the use, as appropriate. Until final action is taken on the text amendment application, the interpretation of the Planning Director shall be binding.

D. STANDARDS SPECIFIC TO PRINCIPAL USES

(1) GENERAL

This section sets forth the standards specific to principal uses, which are identified in the right-most column of Table 4.2.B(5): Principal Use Table. Unless stated to the contrary, the standards set forth in this section shall apply to the individual principal use, regardless of the review procedure by which it is approved.

(2) AGRICULTURAL/RURAL USES

a. ALL AGRICULTURAL/RURAL USES

1. Agriculture

In the LI and HI districts, the following standards apply:

(a) All agriculture activities shall be conducted within a completely enclosed building; and

(b) Animal production is prohibited.

2. Community Garden

(a) Accessory buildings shall be limited to sheds for the storage of tools, greenhouses, and seasonal farm stands. The combined area of all buildings and other structures shall not exceed 15 percent of the area of the parcel.

(b) Areas used for communal composting shall be limited to ten percent of the area of the parcel.

(c) The community garden shall have an established set of operating rules addressing the governance structure of the garden, hours of operation, assignment of garden plots, and maintenance and security requirements and responsibilities.

3. Forestry

The forestry activity shall be conducted:

(a) On forestland that is taxed on the basis of its present-use value as forestland in accordance with state law; and

(b) In accordance with a forest management plan that is prepared or approved by a forester registered in accordance with N.C.G.S. Chapter 89B.

(3) RESIDENTIAL USES

a. HOUSEHOLD LIVING USES

1. Live-Work Unit

A live-work unit shall comply with the following standards:

(a) The residential portion of the building shall occupy at least 50 percent of the gross floor area.

(b) Employees shall be limited to occupants of the residential portion of the building plus up to two persons not residing in the residential portion.

(c) Drive-through facilities are prohibited.

2. Manufactured Home

(a) Manufactured homes are allowed only within the MHO District in accordance with Section 3.8.E, Manufactured Home Overlay (MHO) District.

(b) Except when located on land leased to the owner of the manufactured home, a manufactured home shall:

1. Comply with all dimensional standards that apply to a single-family detached dwelling in the zoning district in which it is located; and

2. Have a continuous masonry curtain wall or foundation, unpierced except where required for ventilation or access, installed under the outer perimeter of the manufactured home from its base to the ground so as to be visually compatible with surrounding residential land uses.

(c) A manufactured home shall have a minimum 3:12 roof pitch.

(d) A manufactured home having a width less than 17 feet shall be oriented on the lot so the dwelling's long axis is parallel to the street.

(e) A manufactured home shall be attached to permanent foundation system in accordance with the Building Code and the following requirements:

1. All wheels, hitches, axles, transporting lights, and removable towing apparatus shall be permanently removed; and

2. Except as otherwise provided in subsection b above, the foundation shall be excavated and shall have continuous skirting or backfill leaving no uncovered open areas except where required for ventilation or access. The foundation may be exposed a maximum of 12 inches above grade.

3. Multifamily Dwellings, Townhouses, and Triplexes

See Section 5.7.D, Multifamily Design Standards.

4. Pocket Neighborhood Development

(a)Purpose and Intent

The purpose of this section is to establish standards to facilitate the voluntary development of pocket neighborhoods that:

1. Encourage affordable housing for current and future residents of the City;

2. Encourage proper use of open space to provide health, safety and general welfare of the community members; and

3. Provide for standards that minimize the impact of automobile traffic and parking.

(b)General Standards

1. Pocket neighborhood developments shall be located on a parcel of land at least one-third (⅓) of an acre and no greater than six acres in area, with at least 50 feet of frontage along a public street.

2. Only single-family detached dwellings and incidental and subordinate accessory uses are permitted as part of a pocket neighborhood development.

3. Developments shall include at least four dwellings but no more than 12 dwellings. In no instance shall the gross density of the development exceed a 20 percent increase in the density of the underlying base zoning district. The number of dwelling units may be increased to no more than thirty (30) with the approval of a Special Use Permit. Additionally, the following requirements shall be met for developments having thirteen (13) to thirty (30) dwelling units:

a. Dwellings shall be in clusters of no more than twelve (12) units.

b. Each cluster shall have its own shared common open space in accordance with area requirements of Section (c), Common Elements, below.

c. Each cluster shall contain at least one of the following elements shared by the residents of a cluster:

I. Barbeque, campfire circle, or outdoor terrace;

II. Picnic shelter;

III. Playground or exercise equipment;

IV. Heated common building for gatherings;

V. Garden; or

VI. Similar element that meets the intent to foster connections among neighbors and strengthen sense of community.

d. Multiple clusters shall be connected by a network of pedestrian pathways.

e. The gross density of the development shall not exceed a 20 percent increase in the density of the underlying base zoning district.

4. At least 60 percent of the individual building lots shall front the common open space area provided in accordance with subsection (c) below, rather than a street or alley.

5. Each individual lot in a pocket neighborhood shall contain only one dwelling unit.

6. Individual lots and buildings shall comply with the standards in Table 4.2.D(3)a.4 below.

Table 4.2.D(3)a.4: Pocket Neighborhood Dimensional Standards

FEATURE	REQUIREMENT
Maximum lot size	7,500 sq ft
Minimum lot width	20 ft
Minimum street frontage	None
Minimum front setback	10 feet from common elements; zoning district requirement from street [1]
Minimum side setback	5 ft [1]
Minimum rear setback	None [2]
Maximum building height	30 ft [3]
Maximum building area	2,000 sq ft [4]

NOTES

[1] Porch steps, ramps, fences, and walkways may encroach into the front setback, but no other structures shall be permitted to encroach into the required setback.

[2] When an individual lot includes a driveway, the minimum rear setback shall be 20 feet.

[3] Above grade. Applies to dwelling only. All other buildings are subject to the maximum building height standards that apply in zoning district in which the development is located.

[4] Applies to dwelling only. All other buildings are subject to any building area standards that apply in zoning district in which the development is located.

(c)Common Elements

1. Developments shall include common elements that comprise at least 30 percent of the total site and include open space, improved pedestrian facilities that provide for connectivity to each dwelling unit and public sidewalk network, and parking area(s).

2. The common open space shall include a central green, lawn, or garden area fronting the dwellings, containing at least 375 square feet of area for each dwelling in the development.

3. If a common building is provided, it shall not be larger than 1,500 square feet and shall not be used as a permanent dwelling unit.

(d)Landscaping and Fences

1. A pocket neighborhood shall incorporate a Type C perimeter buffer yard (see Section 5.3.G, Perimeter Buffer Yards) where the neighborhood abuts lots with existing single- family detached dwellings. The perimeter buffer yard shall be considered part of the common elements.

2. Fences within front yards or side yards forward of the front façade plane shall not exceed three feet in height. Fences in rear yards or side yards behind the front façade plane shall not exceed six feet in height.

3. In no instance shall a fence be placed within a use or access easement.

(e)Vehicular Access and Off-Street Parking

1. Vehicular entryways into pocket neighborhoods and accessways serving off-street parking areas and individual dwelling lots shall be configured as private drives.

2. Pocket neighborhoods are exempt from the parking standards in Section 5.2.E, Off-street Vehicular Parking Space Standards. Instead, at least one off-street parking space shall be provided for each dwelling unit plus one designated guest off-street parking space for every four dwelling units.

3. The pocket neighborhood shall include a shared parking area that accommodates resident and guest parking; however, provision of resident parking spaces within a shared parking area is not required where resident parking is provided through individual driveways or by parking spaces along alleys.

4. In no instance shall a parking space be more than 300 linear feet from the dwelling it serves.

5. Off-street parking areas shall comply with the minimum standards of the LDSM.

6. If provided, detached garages serving more than one dwelling shall be accessed via a private drive or alley. A garage shall not exceed five car bays or include individual garage doors wider than 12 feet each.

(f)Storage Space for Individual Dwellings

Each individual dwelling shall have at least 40 square feet of covered storage space outside the heated floor area. Storage space may be located on an individual lot or on common land adjacent to a common building. This includes accessible attic spaces and crawl spaces.

(g)Homeowners' Association

A pocket neighborhood shall have a homeowner's or property owner's association that maintains control of all common elements and is responsible for the maintenance of such elements within the neighborhood. Confirmation of the establishment of the homeowner's or property owner's association shall be provided to the City prior to final plat approval.

5. Tiny House Neighborhood Development

(a)Purpose and Intent

The purpose of this section is to establish design standards to facilitate the voluntary development of tiny house neighborhoods that:

1. Encourage affordable housing for current and future residents of the City;

2. Encourage proper use of open space to provide health, safety and general welfare of the community members; and

3. Provide for standards that minimize the impact of automobile traffic and parking.

(b)General Standards

1. Tiny house neighborhood developments shall be located on a parcel of land at least one-fourth (¼) of an acre and no greater than two acres in area, with at least 50 feet of frontage along a public street.

2. Only single-family detached dwellings and incidental and subordinate accessory uses are permitted as part of a pocket neighborhood development.

3. Tiny house neighborhoods shall include at least four dwellings but no more than 12 dwellings.

4. Each individual lot in a tiny house neighborhood shall contain only one dwelling unit.

5. A tiny house dwelling shall face interior common open space (see subsection (c) below) or a street. No dwelling shall face a perimeter landscape yard.

6. Individual lots and buildings shall comply with the standards in Table 4.2.D(3)a.5 below.

Table 4.2.D(3)a.5: Tiny House Neighborhood Dimensional Standards

FEATURE	REQUIREMENT
Maximum lot size	6,000 sq ft
Minimum lot width	None
Minimum street frontage	None
Minimum front setback	5 feet from common elements; zoning district requirement from street [1]
Minimum side setback	3 ft [1]
Minimum rear setback	None [2]
Maximum building height	18 ft [3]
Maximum building area	600 sq ft [4]

NOTES

[1] Porch steps, ramps, fences, and walkways may encroach into the front setback, but no other structures shall be permitted to encroach into the required setback.

[2] When an individual lot includes a driveway, the minimum rear setback shall be 20 feet.

[3] Above grade. Applies to tiny house dwelling only. All other buildings are subject to the maximum building height standards that apply in zoning district in which the development is located.

[4] Applies to tiny house dwelling only. All other buildings are subject to any building area standards that apply in zoning district in which the development is located.

(c)Common Elements

1. Developments shall include common elements that comprise at least 30 percent of the total site and include open space, improved pedestrian facilities that provide for connectivity to each dwelling unit and public sidewalk network, and parking area(s).

2. Developments may include a shared parking area, a common building used for recreation and/or storage, a picnic area, community garden space, and other common amenities.

3. If a common building is provided, it shall not be larger than 1,000 square feet and shall not be used as a permanent dwelling unit.

(d)Landscaping

1. A tiny house neighborhood shall incorporate a Type C perimeter buffer yard (see Section 5.3.G, Perimeter Buffer Yards) where the neighborhood abuts lots with existing single-family detached dwellings. The perimeter landscape yard shall be considered part of the common elements.

2. Fences are permitted only within the perimeter landscape yard and to protect community garden areas and shall be 4 feet or less in height.

(e) Vehicular Access and Off-Street Parking

1. Vehicular entryways into a tiny house neighborhood and accessways serving off-street parking areas shall be configured as private drives.

2. Tiny house neighborhoods are exempt from the parking standards in Section 5.2.E, Off-street Vehicular Parking Space Standards. Instead, off-street parking areas shall include at least one parking space for each dwelling unit plus one designated guest parking space for every four dwelling units.

3. The tiny house neighborhood shall include a shared parking area that accommodates resident and guest parking; however, provision of resident parking spaces within a shared parking area is not required in cases where resident parking is provided through individual driveways or by parking spaces along alleys.

4. In no instance shall a parking space be more than 300 linear feet from the dwelling it serves.

5. If provided, off-street parking areas shall comply with the minimum standards of the LDSM.

(f) Homeowners' Association

Homeowner's Association A tiny house neighborhood shall have a homeowner's or property owner's association that maintains control of all common elements and is responsible for the maintenance of such elements within the neighborhood. Confirmation of the establishment of the homeowner's or property owner's association shall be provided to the City prior to final plat approval.

b. GROUP LIVING USES

1. Boarding House

(a) A boarding house shall not be constructed or altered in any way that changes its general residential appearance.

(b) Receptions, private parties, and similar activities are prohibited unless expressly approved as part of a special use permit or site plan application.

(c) All guest rooms shall be located within the principal structure.

(d) Other than registered tenants and their guests, no meals shall be served to the general public unless expressly approved as part of a special use permit or site plan application.

(e) The maximum number of guest bedrooms shall be five, unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging.

(f) All outdoor lights must be shielded to direct light and glare only onto the boarding house premises. Lighting and glare must be deflected, shaded, and focused away from any adjoining residential property.

(g) Signage shall be limited to one non-illuminated ground sign, which shall not exceed five square feet in area or five feet in height.

2. Dormitory

A dormitory shall be owned and operated by an educational institution providing secondary or postsecondary education.

3. Residential Care Facility

(a) Residential care facilities shall not exceed 10,000 square feet of gross floor area in Residential districts.

(b) A copy of the state license issued for the operation of the facility shall be submitted with the application for a zoning clearance permit or certificate of zoning compliance:

(c) The facility shall be located a minimum of 1,000 feet from any hazardous materials collection and disposal.

(d) Residential care facilities that provide care to patients who suffer from Alzheimer's disease, dementia, or other similar disability that may cause disorientation, shall provide a security fence having a minimum height of five feet along the perimeter of any portion of the site that is accessible to the patients.

(4) CIVIC/INSTITUTIONAL

a. COMMUNICATIONS USES

1. Wireless Support Structure, Collocation of Antenna on Existing Structure

(a) Purpose

The purpose of this section is to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;

2. Encourage the location of towers in non-residential and less developed areas;

3. Strongly encourage joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

4. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

5. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

6. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

7. Consider the public's health and safety in regard to communication towers; and

8. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

9. Provide for the timely deployment of small and micro-wireless facilities in accordance with the North Carolina General Statutes.

(b) Applicability

1. The requirements in this section apply to all new wireless support structures ("support structures") and antennas. Wireless support structures and antennas shall be regulated and permitted in accordance with this Ordinance.

2. Antennas and support structures may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or support structure on the lot.

3. The following are permitted by right in all zoning districts:

a. Stealth antennas (see Article 10, Definitions) that are less than 65 feet in height;

b. Cells On Wheels (COWS) placed for a period of not more than 120 days at any location within the City after a declaration of an emergency or a disaster by the Governor or by the responsible official of the City;

c. Repairs to existing telecommunications facilities including the replacement of one facility with another like facility. For example, the replacement of a Small Wireless facility with another Small Wireless Facility;

d. Installation , placement, maintenance or replacement of micro wireless facilities that are suspended between existing utility poles;

e. Installation, placement and maintenance of small wireless facilities in rights-of-way;

f. Communication Services Providers authorized to occupy City rights-of-way who are paying taxes under N.C. Gen. Stat. §§ 105-164.4 (a) (4c) or (6); and

g. Modifications of or additions to existing wireless support structures that are not substantial modifications and do not:

(1) Increase the overall height of the support structure by more than ten percent or the height of an additional antenna array, with separation from the nearest existing antenna array not to exceed 20 feet, regardless of the height standards of the zoning district in which the support structure is located;

(2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance;

(3) Increase the square footage of an existing equipment compound by more than 2,500 square feet; or

(4) Defeat existing concealment elements of the support structure or its base station.

4. In the event that a support structure or antenna is installed or leased on a portion of a lot, the lot in its entirety will determine any and all district development regulations that the structure may be subjected to, including but not limited to setback, lot coverage, and other such requirements.

(c)Permit Requirements

1. No wireless support structure or antenna shall be erected or established unless and until a zoning clearance permit has been issued in accordance with Section 2.5.C(1), Zoning Clearance Permit.

2. In addition to the procedures, standards and criteria set forth in Section 2.5.A(5), Special Use Permit, special use permits for support structures and antennas shall be issued in accordance with the following provisions:

a. Support structures or antennas 65 feet or more from the average ground level shall require a special use permit. This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna. This requirement shall not apply to applications for collocations or to eligible facilities requests (see Article 10: Definitions), in accordance with N.C.G.S. §160D-934.

b. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.

c. Each applicant shall provide to the Planning Director an inventory of existing support structures, antennas, and sites approved for support structures or antennas, that are either within the jurisdiction of the City or are located in adjacent areas of Cabarrus County and Rowan County. For purposes of this sub-section, adjacent means located no more than one-half mile from Kannapolis' planning and zoning jurisdiction. Such information shall include specific information about the location, height, and design of each support structure. The Planning Director may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or with other organizations seeking to locate antennas within the jurisdiction of this Ordinance provided, however that the Planning Director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

d. A preliminary major site plan consistent with the LDSM which clearly indicates the location, type, and height of the proposed support structure; on-site land uses and zoning; adjacent land uses and zoning (including when adjacent to other zoning jurisdictions); adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed support structure and any other structures; and other information deemed by the Planning Director to be necessary to assess compliance with this Section;

e. The setback distance between the proposed support structure and the nearest residential unit and residentially zoned properties;

f. The availability of suitable existing support structures, other structures, or alternative technology;

g. The separation distance from other support structures pursuant to Table 4.2.D(4)a.1(e)4.cshall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing support structure(s) and the owner/operator of the existing support structure(s), if known;

h. Method of fencing and finished color and, if applicable, the method of camouflage and illumination;

i. A notarized statement by the applicant as to whether construction of the support structure will accommodate co-location of additional antennas for future users;

j. A description of the suitability of the use of existing support structures, other structures or alternative technology not requiring the use of support structures or structures to provide the services to be provided through the use of the proposed new support structure; and

k. A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

(d)Approval Criteria

1. Factors Considered

In determining whether to issue a special use permit, the Board of Adjustment shall consider, in addition to any other standards in this Ordinance governing special use permits, the following factors:

a. Height of proposed support structure;

b. Proximity of the support structure to residential structures and residentially zoned district boundaries;

c. Nature of uses on adjacent and nearby properties;

d. Surrounding topography;

e. Surrounding tree coverage and vegetation;

f. Design of the support structure, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;

g. Proposed ingress and egress; and

h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, in accordance with subsection 2 below.

2. Adequate Technology

No new support structure, except those listed in subsection (b)3 above, shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Director, or Board of Adjustment (if special use permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed support structure or antenna. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:

a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new support structure development are presumed to be unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

g. The applicant demonstrates that alternative technologies that do not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new support structure or antenna development shall not be presumed to render the technology unsuitable.

(e)Standards

1. State and Federal Requirements

All support structures and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate support structures and antennas. If such standards and regulations are changed, then the owners of the support structures and antennas governed by this section shall bring such support structures and antennas into compliance with the revised standards and regulations within 180 days of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring support structures and antennas into compliance with such revised standards and regulations shall

constitute grounds for the removal of the support structure or antenna at the owner's expense.

2. Comply with Building Code

To ensure the structural integrity of support structures and antennas, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

3. Fall Zone

No support structure or antenna shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any support structure or antenna, not located a distance equal to the height of the support structure plus 50 feet away from all habitable structures, property lines, or other support structures, shall be designed to withstand the maximum forces expected from wind and ice when the support structure is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the support structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. This section does not apply to collocations, micro-wireless facilities or small wireless facilities. Stealth antennae and their support structures shall meet the setback of either (i) the use to which they are attached or (ii) the structure that the wireless facility mimics. For example, a wireless facility built in the form of a steeple shall meet the setback for churches.

4. Setback and Separation Requirements

a. This section does not apply to collocations, micro-wireless facilities or small wireless facilities. Stealth antennae and their support structures shall meet the setback of either (i) the use to which they are attached or (ii) the structure that the wireless facility mimics. For example, a wireless facility built in the form of a steeple shall meet the setback for churches.

b. Support structures shall be setback from minimum setback lines on abutting parcels the minimum distance specified in Table 4.2.D(4)a.1(e)4.b: Minimum Setback Requirements, based on the use of the abutting parcel or the zoning district in which the parcel is located, and subject to the fall zone requirements in subsection 3 above.

Table 4.2.D(4)a.1(e)4.b: Minimum Setback Requirements

Abutting Parcel Use or Zoning District	Minimum Setback from Nearest Minimum Setback Line on Abutting Parcel [1]
Single-family, duplex, or manufactured home dwelling or vacant land in any Residential zoning district for which a subdivision preliminary plat or final plat has been approved	200 feet or 150 percent of support structure height, whichever is less
Residential uses other than single-family, duplex, or manufactured home dwellings	100 feet or 100% of support structure height, whichever is greater
Any nonresidential use or vacant land in any district that is not a Residential district	Minimum setback in zoning district where support structure is located
NOTES: [1] Measured from the base of the support structure to the closest minimum setback line on the abutting parcel.	

c. Monopole towers shall be separated from preexisting monopole towers by the minimum distance specified in Table 4.2.D(4)a.1(e)4.c: Minimum Separation Requirements for

Monopole Towers. The separation distances shall be measured by drawing or following a straight line between the base of the preexisting tower and the base location of the proposed tower as shown on the application.

Table 4.2.D(4)a.1(e)4.c: Minimum Separation Requirements for Monopole Towers

Proposed Tower Type and Height	Preexisting Tower Type and Height	
	Monopole 65 feet in height or greater	**Monopole less than 65 feet height**
Monopole 65 feet in height or greater	1,500 feet	750 feet
Monopole less than 65 feet height	750 feet	750 feet

5. **Security Features**

Support structures shall be enclosed by security fencing having a minimum height of six feet and a maximum height of eight feet, and shall be equipped in such a manner as to deter climbing. This requirement does not apply to collocations, micro-wireless facilities or small wireless facilities. Stealth antennae and their support structures shall meet the security features of the structure that the wireless facility mimics.

6. **Landscaping**

Except for stealth support structures, equipment facilities and support facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support structure compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Planning Director may waive these requirements in locations where the view of the support structure base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

7. **Colors and Materials**

a. Except for stealth support structures, support structures shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness, unless otherwise required by FAA regulations.

b. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the support structure or antenna site.

c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

8. **Lights**

No support structure or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC, or the City. This restriction against lights does not apply to towers which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and

design shall be configured to create the minimum practicable penetration of areas outside the boundaries of the lot or parcel. This restriction against lights also does not apply to small cell wireless facilities, micro wireless facilities or stealth wireless support facilities below 65 feet in height where the wireless support structure is designed to function as a street or yard light.

9. Signs

Signs on a support structure, or on any portion of the premises leased for wireless communication use, shall be limited to those needed to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the sign regulations of this Ordinance.

10. Equipment Compounds, Buildings and Other Equipment Storage

The equipment cabinets and other support structures used in association with support structures or antennas shall comply with the following provisions. This section does not apply to small cell wireless facilities, micro wireless facilities or stealth wireless support facilities below 65 feet in height.

a. The cabinets and structures shall have a maximum height of 14 feet and a maximum gross floor area of 300 square feet.

b. The cabinets and structures shall comply with all applicable building codes.

c. Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.

d. If the cabinet or structure is accessible, the entry or access side of the cabinet or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet or structure. Such access way shall not face residentially zoned property.

(f)Collocation Requirements

1. Good Faith

Applicants and permittee shall make a good faith effort to share wireless communication structures, facilities, and sites where feasible and appropriate. Good faith effort shall include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to collocation, and may include negotiations for erection of a replacement support structure to accommodate collocation. A competitive conflict to collocation or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith.

2. Third Party Technical Review

The Planning Director may order a third party technical study. The applicant will be required to reimburse the City for the amount established in the City's fee schedule. The Planning Director may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

3. Exceptions

No collocation may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.

4. **Failure to Comply with Collocation Requirements**

Failure to comply with collocation requirements may result in denial of a permit request or revocation of an existing permit.

(g)Removal of Abandoned Antennas and Wireless Support Structures

1. Any antenna or support structure that is not operated for a continuous period of 180 days shall be considered abandoned, and the owner of such facility shall physically remove the antenna or support structure within 180 days of receipt of notice from the Planning Director notifying the owner of such abandonment. If there are two or more users of a single support structure or antenna, then this provision shall not become effective until all users cease using the support structure or antenna for the prescribed period. "Physically remove" shall include, but not be limited to:

a. Removal of antennas, mount, equipment shelters and security barriers from the subject property;

b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations; and

c. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

2. In the event that a wireless support structure is not removed by its owner in the specified time, the support structure and associated structures may be removed by the City and the costs of removal assessed against the wireless support structure or property owner. The City shall ensure and enforce removal by means of its existing regulatory authority.

(h)Nonconformities

1. **No Expansion of Nonconforming Use**

Support structures that are constructed, and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

2. **Preexisting Support structures**

Preexisting support structures constructed prior to the adoption of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new support structure of like construction and height) shall be permitted on such preexisting support structures. New construction other than routine maintenance on a preexisting support structure shall comply with the requirements of this chapter.

3. **Rebuilding Damaged or Destroyed Nonconforming Support structures or Antennas**

a. Notwithstanding the provisions in this section (h), and subject to subsections b and c below, any bona fide nonconforming support structure or antenna that is damaged or destroyed by weather events or other non-manmade causes shall be made to conform to the requirements of this Ordinance.

b. The type, height, and location of any damaged or destroyed support structure that is repaired or replaced in accordance with subsection a above, shall be of the same type and intensity as the original facility.

c. If no permit is obtained for the repair or replacement of a support structure or antenna in accordance with subsection a above, or if said permit expires, the support structure or antenna shall be deemed abandoned.

2. Small and Micro Wireless Facilities

(a)Approval Criteria

Applications for zoning clearance permits for small wireless facilities may be approved under this section only if the application meets the following requirements, subject to subsection (b) below:

1. The small or micro wireless facility meets the definitions found in Chapter 10.

2. The proposed facility meets the location and height requirements in Table 4.2.D(4)a.2(a) below.

Table 4.2.D(4)a.2(a): Allowed Location and Maximum Height of Small Wireless Facility

Location Relative to Public Right-of-Way		Zoning Districts in which Allowed	Maximum Height of New, Modified, or Replacement Utility Pole [1]	Maximum Height of Small Wireless Facility Above Utility Pole or Support Structure	Maximum Total Height of Small Wireless Facility and Utility Pole or Support Structure [1]
In public right-of-way	Utility wires NOT already located underground	All districts	50 ft	10 ft	60 ft
	Utility wires already located underground	R1, R2, and R4 districts only	40 ft	10 ft	50 ft
Outside of public right-of-way		See Table 4.2.B(5): Principal Use Table	50 ft	10 ft	60 ft

NOTES
[1] Measured from ground level.

3. The proposed facility is located on NCDOT- or City-owned rights-of-way or outside of the public right-of-way on property that is not in a Residential district or a historic district.

4. Unless required by the FCC, FAA or the City, wireless support structure shall be galvanized gray or a neutral color, not be metal or reinforced concrete, and meet current NESC standards and he wind- and ice-loading requirements of ANSI 222 Version G for essential services.

5. Unless proven infeasible by clear and convincing evidence, in lieu of installing new wireless support structures or poles, and wireless installation in the public right-of-way shall replace existing utility or streetlight poles;

6. Wireless installations shall be on poles that meet or exceed current NESC standards and wind and ice loading requirements of ANSI 222 Version G for essential services.

7. All cabling and equipment shall either be placed inside the pole or inside a shroud. Any radios, network equipment and batteries shall be enclosed in a cabinet near the pole or in a pole-mounted cabinet under a pole-mounted shroud.

8. All Small Wireless Facilities shall be designed to accommodate the collocation of other antennas whenever feasible. Upon request of the applicant, the Planning Director may waive the requirement that new small wireless facility accommodate the collocation of other service providers if it finds that construction of a shorter wireless support structure with fewer antennas

will promote community compatibility, or that collocation of other service providers is technically unfeasible.

9. Signs shall meet the standards of Section 4.2.D(4)a.1(e)9.

10. Landscaping outside of the public right-of-way shall meet the standards of Section 4.2.D(4)a.1(e)6.

11. Equipment compounds may only locate outside the public right-of-way and shall meet the standards of Section 4.2.D(4)a.1(e)10.

(b)Reasons for Denial of Application

The City may deny an application for a small wireless facility only on the basis that it does not meet any of the following:

1. The City's applicable codes;

2. City code provisions or regulations that concern public safety, objective design standards for decorative utility poles, City utility poles, or reasonable and nondiscriminatory stealth and concealment requirements including screening or landscaping for ground-mounted equipment;

3. Public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or

4. The requirements of any Historic District.

(c)Application Submission and Review

1. Applications for zoning clearance permits to collocate small wireless facilities in the public right-of-way or in a Mixed-Use or Nonresidential district shall be submitted, reviewed, and decided upon in accordance with Section 2.5.C(1), Zoning Clearance Permit, and N.C.G.S. Chapter 160D, Art.9, Part 3, Wireless Telecommunications Facilities. In addition to the requirements of Section 2.5.C(1), an application for a small wireless facility must include a sworn, notarized attestation of the following:

a. The small wireless facility shall be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date; and

b. Collocation shall commence within six months of the permit issuance date, and if it is not commenced within that period, the permit may be revoked.

2. Applications for small wireless facilities to be located in City rights-of-way shall meet the requirements of Chapter 15, Streets, of the City Code In addition to the requirements in subsection 1 above.

3. Applicants for zoning clearance permits for small wireless facilities may file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this Ordinance; however:

a. The City may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations for which incomplete information has been provided or that have been denied; and

b. The City may issue a separate permit for each collocation that is approved.

4. Review and processing shall be completed within 45 days of the City's receipt of a complete application. The City shall provide written notice that an application is incomplete within 30 days of the receipt of the application.

b. COMMUNITY SERVICE USES

1. Childcare Center

(a) The following shall be submitted with the application for a zoning clearance permit or certificate of zoning compliance:

1. A copy of the state license issued to the center; and

2. Evidence that NCDOT or the City, as applicable, has issued driveway permits for the center.

(b) The center shall be located a minimum of 1,000 feet from any hazardous materials collection and disposal.

(c) Ingress and egress directly onto a public street shall be provided by a paved or otherwise improved driveway that does not require vehicles to back onto the street right-of-way.

(d) Outdoor activity and play areas shall not be located in the front yard and shall have a minimum setback from abutting residential property of 1.5 times the applicable zoning district setback requirement.

2. Public Assembly, Indoor

(a) All buildings shall have a minimum setback from abutting residential property of 1.5 times the applicable zoning district setback requirement.

(b) In residential zoning districts, auditoriums shall be limited to no more than 350 seats.

c. HEALTH CARE USES

1. Nursing Home

(a) A copy of the state license issued for the operation of the facility shall be submitted with the application for a zoning clearance permit or certificate of zoning compliance:

(b) The facility shall be located a minimum of 1,000 feet from any hazardous materials collection and disposal.

(c) Nursing homes that provide care to patients who suffer from Alzheimer's disease, dementia, or other similar disability that may cause disorientation, shall provide a security fence having a minimum height of five feet along the perimeter of any portion of the site that is accessible to the patients.

d. PARKS AND OPEN SPACE USES

1. Cemetery

(a) All structures, except gatehouses, shall be set back a minimum of 100 feet from property lines on the perimeter of the site. There is no minimum setback required for gatehouses.

(b) All graves and burial plots shall be set back a minimum of 20 feet from property lines on the perimeter of the site, except where the property line is shared with an abutting parcel that contains an existing cemetery, in which case graves and plots shall be set back a minimum of five feet from the property line.

e. TRANSPORTATION USES

1. Commercial Parking (As a Principal Use)

In the MU-SC, MU-UC, MA-AC, TOD, and CC districts, surface parking lots as a principal use are not allowed.

f. UTILITY USES

1. Solar Energy Collection Facility, Large Scale

(a) The minimum lot size is five acres.

(b) All equipment and structures shall comply with the dimensional standards that apply to principal buildings in the district in which the facility is located.

(c) The facility shall not create glare or shadows on adjacent land.

(d) The application shall include a decommissioning plan that describes the timeline and manner in which the facility will be decommissioned and the site restored to a condition similar to its condition prior to the establishment of the facility.

(5) COMMERCIAL

a. ANIMAL CARE USES

1. All Animal Care Uses

(a) Facilities for the boarding of dogs and other household pets shall comply with the following standards:

1. Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.

2. Animal waste shall not be stored within 50 feet of any property line or surface waters.

3. Any open exercise runs or pens shall be set back at least 50 feet from all property lines, and a Type C perimeter buffer yard in accordance with Section 5.3.G, Perimeter Buffer Yards, shall be provided between the run or pen and the property line.

(b) Areas used for grazing, exercising or training of animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.

(c) Outdoor areas where animals are kept shall be enclosed by a minimum six-foot high fence or other barrier providing comparable security to prevent animals from straying.

2. Veterinary Hospital or Clinic

(a) The keeping of animals outside the principle building is prohibited.

(b) The structure shall be insulated and soundproofed to minimize noise impacts on adjacent parcels.

b. BUSINESS SERVICES USES

1. Conference or Training Center

No products shall be sold on-site except those that are clearly incidental and integral to conference or training activities conducted in the center (e.g., food items, shirts, glasses and mugs, pens and pencils, and similar items bearing the logo of conference or seminar sponsors or participants).

c. EATING OR DRINKING ESTABLISHMENTS

1. All Eating or Drinking Establishments

Drive-through service and outdoor seating are allowed in accordance with Section 4.3.B, Accessory Use/Structure Table, and shall comply with all applicable standards in Section 4.3, Accessory Uses and Structures.

2. Bar or Nightclub

Bars and nightclubs shall comply with the standards in this section, unless located completely within a hotel or motel and occupying not more than 25 percent of the gross floor area of the hotel or motel.

(a) A bar or nightclub shall not be established within 200 feet of any of the following:

1. A Residential zoning district;
2. A private, charter, or parochial school or a public school;
3. A childcare center;
4. An indoor public assembly use; or
5. An existing bar or nightclub.

(b) The minimum distance in subsection (a) above, shall be measured from the outer building walls of the proposed use to the nearest property line of the other use.

(c) The application shall include a floor plan of the building in which the bar or nightclub is proposed to be located. The floor plan shall delineate separately the areas of the building which are used for the dispensing of food and beverages, entertainment, and/or dancing.

3. Microbrewery

(a) The microbrewery shall include a tap room that is oriented toward the street or main pedestrian entrance of the building. Tap rooms shall be open for business no less than one quarter of the time each week the microbrewery is operating.

(b) The microbrewery shall produce no more than 25,000 total barrels, or 775,000 gallons, per year of beer and other malt beverages.

(c) Crushing and fermentation operations shall be managed so that that byproducts are contained and disposed of in a manner that does not result in spill-over impacts on adjacent property, public spaces, or public rights-of-way.

(d) Outdoor storage of goods and materials is prohibited.

(e) If the microbrewery is located within 200 feet of any residential or institutional use, no loading or distribution activities shall take place outside an enclosed building between the hours of 9:00 p.m. and 7:00 a.m.

4. Restaurant, Carryout

The site shall be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation. Pedestrian and vehicular circulation shall be coordinated on-site and with the circulation on adjacent properties.

d. PERSONAL SERVICES

1. Fortune telling establishment

(a) Fortune telling establishments shall not be located within a one mile radius of any major gateways to the City, defined as the intersection of the City limits and any of the following streets:

1. NC-3;
2. NC-73;
3. Hwy 29;
4. Kannapolis Parkway;
5. Lane Street;

6. C Street;
7. Ridge Avenue;
8. Rogers Lake Road; and
9. Main Street.

(b) The establishment shall not be located within one mile of any other fortune telling establishment.

(c) At least 50 percent of the floor area that is open to the public, excluding restrooms, shall be devoted to the bona fide retail sale of merchandise.

(d) The outdoor sale of goods or merchandise of any kind is prohibited.

(e) Signage shall be limited to one ground sign per establishment. Each such sign shall have a maximum of two sides and maximum area of 32 square feet per side. Window signs are prohibited.

(f) Any use of the following lighting effects, when visible from the exterior of the establishment, is prohibited:

1. Neon or other effects which simulate the appearance of neon; and
2. Flashing, chasing, undulating, and other variable lighting effects.

e. RECREATION/ENTERTAINMENT USES

1. Electronic Gaming Operation

(a) The building housing the electronic gaming operation shall not be located within 500 feet of a tax parcel having a current tax-exempt designation from the County in which it is located, measured in a straight line from the outside of the building to the nearest boundary line of the tax parcel having the tax-exempt designation.

(b) The building housing the electronic gaming operation shall be set back a minimum of 200 feet from right-of-way of the following streets:

1. NC-3;
2. NC-73;
3. Hwy 29;
4. Kannapolis Parkway;
5. Lane Street;
6. C Street;
7. Ridge Avenue;
8. Rogers Lake Road; and
9. Main Street.

(c) Window signs are prohibited.

(d) The use of flashing, chasing, undulating, and other variable lighting effects, when visible from the exterior of the establishment, is prohibited.

2. Outdoor Banquet Facility

(a) The minimum lot size is five acres.

(b) A maximum of one single-family detached residence may be located on the site.

(c) An outdoor banquet facility that abuts a Residential district or property developed for residential use shall provide a minimum of a Type B perimeter buffer yard in accordance with Section 5.3.G, Perimeter Buffer Yards, wherever the property abuts the Residential district or residential use.

(d) Event areas shall be located at a minimum of 60 feet from any adjacent Residential district or property developed for residential use. This setback may be increased as a condition of approval of the special use permit.

(e) Parking areas shall be located a minimum of 50 feet from adjacent properties and shall be screened from public streets and adjoining properties with perimeter landscaping.

(f) The initial 50 feet of driveway from the public or private street providing access to the site shall be paved with concrete or asphalt. Internal drives and parking and service areas shall be paved with materials suitable to accommodate the anticipated traffic, such as gravel, crushed stone, or other similar materials, shall be maintained so as to minimize dust, and shall be maintained free of potholes, weeds, and other damage.

(g) The hours of operation, including set-up and break-down for an event, shall be established as a condition of approval of the special use permit.

3. Sexually Oriented Businesses

(a) Purpose

1. This Ordinance is necessary to protect the City from the potential secondary effects of sexually oriented businesses including crime; to protect the City's retail trade; to prevent the blighting of neighborhoods and maintain property values; to protect and preserve the quality of the City's neighborhoods and the City's commercial districts; to protect the City's quality of life; to address the increased threat of the spread of sexually transmitted diseases; and to protect the peace, welfare, and privacy of persons who patronize sexually oriented businesses.

2. Experience in this City as well as in cities and counties within and outside of North Carolina including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and Phoenix Arizona; have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The City recognizes and relies upon the experience of these other cities and counties in adopting sexually oriented business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* 211 Cal. App. 3d 188 (1989)); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1976)); the City of Seattle Washington (as discussed in *Northend Cinema v. City of Seattle* 90 Wash. 2d 709, 585 P.2d 1153 (1978)); and the County of Palm Beach, Florida (as discussed in *Movie & Video Work v. Board of County Commissioners* 723 F. Supp. 695 (S.D. Fla. 1989)) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the 1979 Adult Use Study by the Phoenix Planning Department; (2) Tucson, Arizona (1990); (3) the 1991 report to the City of Garden Grove by Drs. McCleary and Meeker on the relationship between crime and adult business operations; (4) the City of Los Angeles in 1977); (5) the 1984 "Analysis of Adult Entertainment Businesses in Indianapolis" by the Department of metropolitan Development; (6) Minneapolis, Minnesota (1980); (7) Cleveland, Ohio (1977); (8) Oklahoma City, Oklahoma (1986); (9) Austin, Texas' study on effects of adult businesses; (10) Amarillo, Texas (1977); (11) Beaumont, Texas (1982); (12) Houston, Texas (1983); and (13) Seattle, Washington (1989).

3. The City Council believes the following statements are true, in part based upon its understanding of the experiences of the various jurisdictions identified.

a. Crime rates tend to be higher in residential areas surrounding sexually oriented businesses than in industrial areas surrounding sexually oriented businesses;

b. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses;

c. Sexually oriented businesses should be located in specific areas of the City which are a specified distance from sensitive uses such as residences, parks, religious institutions and schools, irrespective of whether physical barriers are present. This necessary to (1) ensure that the impact on such sensitive uses by adverse secondary effects caused by sexually oriented businesses are mitigated to the maximum extent possible; (2) to prevent ad hoc decisions with respect to a potential sexually oriented business site which does not meet the criteria set forth herein; and (3) to provide certainty to the residents of the City and sexually oriented business operators with respect to potential adult use sites.

d. The image of the City as an attractive place to reside will be adversely affected by the presence of sexually oriented businesses in close proximity to residential uses, schools, religious institutions and parks;

e. The existence of sexually oriented businesses in close proximity to residential areas has been shown in some cities to reduce the property values in those residential areas;

f. A reasonable regulation of the location of sexually oriented businesses protects the image of the community and its property values and protects its residents from the adverse secondary effects of sexually oriented businesses while providing those who desire to patronize sexually oriented businesses an opportunity to do so in appropriate areas in the City; and

g. There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by sexually oriented businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that sexually oriented businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Regulations for sexually oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.

4. The City Council recognizes and relies on the findings set forth in the 1986 N.C. Attorney General's Report on Pornography in support of this Ordinance including, but not limited to its recommendations that local governments ban certain features of video booths that facilitate carnal sexual encounters.

5. The City Council finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

a. Evidence indicates that some dancers, models and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in sexually oriented businesses (collectively referred to as "performers") have been found to engage in sexual activities with patrons of sexually oriented businesses on the site of the sexually oriented business;

b. Evidence has demonstrated that performers employed by sexually oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;

c. Evidence indicates that performers at sexually oriented businesses have been found to engage in acts of prostitution with patrons of the establishment; and

d. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at sexually oriented businesses.

6. The City Council has determined that the establishment of a sexually oriented business development permit process is a legitimate and reasonable means of ensuring that:

a. Operators of sexually oriented businesses comply with the reasonable regulations of this Ordinance;

b. The recognized secondary impacts of a proposed sexually oriented business in a specific location are mitigated; and

c. Operators of sexually oriented businesses have specific guidelines with respect to where they can establish or operate a sexually oriented business.

7. It is not the intent of the City Council in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral ordinance which addresses the secondary effects that sexually oriented businesses have on the City.

8. The City Council desires to protect the rights conferred by the United States Constitution to sexually oriented businesses in a manner that ensures the continued and orderly development of property within the City and diminishes those undesirable negative secondary effects the previously mentioned studies have shown to be associated with the development and operation of sexually oriented businesses.

9. The City Council and Planning and Zoning Commission have held duly noticed public hearings, to receive input and testimony from the public concerning the adoption of this proposed Ordinance.

10. These regulations are authorized by state law.

(b)Standards

1. A sexually-oriented business shall not be located within 100 feet of the following, measured from property line to property line:

a. Any other sexually-oriented business;

b. Any public or private school, public or private day care center, public or private recreation center, church or religious complex, or park used by the public for recreational purposes;

c. Any hotel, motel, or boarding house that has fewer than 30 sleeping rooms; and

d. Any residential or mixed-use zoning district.

2. Sexually oriented businesses shall be established only on properties with direct access and frontage on the section of South Cannon Boulevard (U.S. Highway 29) between the Martin Luther King Jr Avenue overpass and the intersection of Dale Earnhardt Boulevard (NC Highway 3).

3. A sexually oriented businesses shall be established only on an individual lot of record, and shall not be part of a combined development. Not more than one sexually oriented business or use shall be permitted on the same lot of record, or in the same building, structure, or portion of a building or structure.

4. Signage shall be regulated in accordance with Section 5.9, Sign Standards, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment.

Window signs are prohibited, except a one square foot sign may be placed on the door to state hours of operation and admittance to adults only.

5. Window areas shall not be covered or made opaque in any way.

6. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch, or other pictorial or graphic representation of a performance displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult oriented business.

7. Live or recorded voices, music, and sounds shall not be audible from outside the walls of the establishment.

8. A sexually oriented business shall not be open earlier than 8:00 a.m., later than 12:00 midnight, or on any Sunday.

9. A sexually oriented business shall be open to inspection at all reasonable times by any law enforcement officer, the Planning Director, or such other persons as the Planning Director may designate in the normal course of their duties, upon presentation of proper credentials. Areas not open to the public may be inspected if appropriate consent is given or if an inspection warrant is secured.

10. All nonconforming sexually-oriented businesses which are not found in compliance with the requirements of this section shall either cease and desist or meet full compliance standards no later than five years following the effective date of this Ordinance or applicable amendment hereto provided however, that no existing open storage area may be expanded or enlarged except in accordance with the provisions herein.

11. Notwithstanding the above provisions, any sexually-oriented businesses that were subject to, and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not be subject to this section.

f. RETAIL SALES AND SERVICES

1. Check Cashing, Auto Title, or Payday Loan Business

(a) Hours of operation shall be limited to between 7:00 a.m. and 8:00 p.m.

(b) A schedule of fees/charges shall be posted where they are immediately visible to persons entering the business, and a copy of the fee schedule shall be made available to all persons entering the business.

(c) The business shall not share floor space with any other business.

(d) Security lighting and cameras shall be provided on all open sides of the building to provide surveillance of the area within 100 feet of the building's exterior.

2. Farmer's Market

(a) Vehicular access to the subject property shall be from a street having a functional classification of collector or higher.

(b) Stalls, sales tables, and any other outdoor facilities related to the market shall be located at least 15 feet from any abutting street.

(c) Items for sale shall not be displayed or stored within customer pathways.

(d) The farmer's market shall have an established set of operating rules addressing the governance structure of the market, hours of operation, and maintenance and security requirements and responsibilities.

3. Prefabricated Building Sales

(a) The following shall be designated or noted, as appropriate, on the site plan:

1. All display, storage, repair, office, and parking areas;
2. The number of building display pads;
3. Any accessory uses (such as sales of items not described in this section); and
4. Proposed landscaping and screening.

(b) Required setbacks for permanent structures shall be the greater of (1) the minimum setbacks that apply in the zoning district where the structure is located, or (2) the width of the required landscape planting yard if greater than ten feet.

(c) Display pads used to display prefabricated buildings for sale shall comply with the following standards:

1. The display pad shall be shown on an approved site plan;
2. The display pad shall be located at least ten feet from all property lines and public street rights-of-way;
3. Display pads used to display a manufactured home or a modular home shall have a maximum area of 120 percent of the home's footprint.
4. Display pads used to display manufactured homes or modular homes shall be separated by at least ten feet. Display homes shall be level and blocked, and access to the home shall be through a permanently constructed stairway or ramp. Display homes which are visible off-site shall be provided with skirting, a low fence, or landscaping around the base of the home to prevent open views underneath the home.
5. Display pads used to display prefabricated buildings other than manufactured homes and modular homes shall be separated by at least five feet.

(d) In addition to the landscaping requirements in Section 5.3, Landscaping and Buffer Standards, at least one ornamental tree or shade tree, two medium shrubs, and six small shrubs shall be planted in the area immediately surrounding each display pad used to display a manufactured home or modular home, and the area immediately around the display pad shall be grassed or mulched in order to provide each space with a permanent, residential appearance.

(e) Storage and repair activities, prefabricated buildings not for immediate sale, and replacement and discarded parts and accessories shall be screened from off-site views.

(f) Travel lanes, access lanes, areas, sidewalks, and parking spaces shall be paved. Storage and repair areas and display pads shall be paved or surfaced with gravel.

(g) Minimum four-foot-wide sidewalks shall be constructed throughout the site so as to provide complete pedestrian connections between parking areas, display pads, and sales offices.

(h) Signs shall comply with Section 5.9, Sign Standards. In addition, each prefabricated building displayed for sale may be posted with a sign having a maximum area of the three square feet.

(i) Manufactured homes displayed for sale shall comply with the Federal Manufactured Home Construction and Safety Standards and shall bear the required United States Department of Housing and Urban Development (HUD) tag and/or data plate.

(j) Modular homes displayed for sale shall be certified as complying with the North Carolina State Building Code in accordance with state law.

4. Self-Service Storage

(a) The maximum lot size is three acres.

(b) Notwithstanding the building height standards in the district where the self-service storage is located, except in the GC District, buildings where storage units are accessed directly from the building's exterior shall have a maximum height of one story. For purposes of this section, one story shall mean and refer to a maximum interior ceiling height of ten feet, which may include a maximum of eight feet with an additional two feet to accommodate a garage-type sliding or roll up door.

(c) The required setback shall be twenty-five (25) feet when adjacent to areas that are zoned residential.

(d) A Type B perimeter buffer yard shall be provided in accordance with Section 5.3.G, Perimeter Buffer Yards, around the perimeter of the self-service storage facility.

(e) Signs and other advertising mediums are prohibited within the buffer yard.

(f) The establishment shall have an on-site manager or an electronic security system.

(g) The sale of personal property and the conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units and incidental sales of storage-related materials (boxes, tape, labels, etc.) is prohibited.

(h) No portion of any self-service storage shall be used, on a temporary or permanent basis, as a dwelling, except a single dwelling unit for use by an on-site manager or caretaker is allowed as an accessory use.

(i) The repair, construction, or reconstruction of any boat, engine, motor vehicle on-site is prohibited.

(j) On-site storage of a propane or gasoline engine or a propane or gasoline storage tank is prohibited. All rental contracts for storage units shall include clauses prohibiting (a) the storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals, and (b) the use of the property for purposes other than dead storage.

(k) All outdoor lights must be shielded to direct light and glare only onto the lot which the self-service storage is located.

(l) Building renderings are required to demonstrate that street facing facades present the appearance of an office or retail commercial use.

(m) No outdoor storage within the General Commercial (GC) zoning district.

5. Shopping Center

(a) Prior to approval of any zoning compliance permit for development of a new shopping center, a site plan shall be submitted and approved showing how pedestrian and vehicle circulation, off-street parking and loading, landscaping, open space set-asides, and signage will be coordinated on the site.

(b) To foster variations in roof lines to modulate and reduce the massive scale of large buildings, roofs in the shopping center shall have a minimum of three roof slope planes. Flat roofs and rooftop equipment shall be concealed from public view by parapets that:

1. Feature three dimensional cornice treatment;
2. Have a maximum height of one-third of the height of the supporting wall; and
3. Are not of a constant height for a length greater than 150 feet.

(c) Each building shall have at least one customer entrance that includes a minimum of three of the following features:

1. Canopies or porticos;
2. Overhangs;
3. Arcades;
4. Raised corniced parapets over the door;
5. Peaked roof forms;
6. Arches;
7. Recesses or projections in the building façade;
8. Display windows;
9. Architectural details such as tile work and moldings;
10. Outdoor patios; and
11. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting;

(d) External mechanical appurtenances such as heating and air conditioning equipment shall be screened from public view.

(e) In the MU-N District, the total gross floor area of a shopping center shall not exceed 32,000 square feet.

g. VEHICLE SALES AND SERVICES USES

1. Car Wash

(a) The site shall be designed such that vehicle stacking, circulation, and turning movements do not create obstructions to vehicular or pedestrian movement along adjacent streets, through parking areas, or in front of buildings.

(b) Bays for washing vehicles shall be oriented or screened so that the interior of the bay is not visible from ground level at the street.

2. Commercial Vehicle Service and Repair

(a) A commercial vehicle service and repair establishment shall be located at least 200 feet from any residential development, residential district, school, or child care center.

(b) In the GC District, all service and repair of vehicles shall be conducted in a wholly enclosed building.

(c) In the GC District, each vehicle awaiting or undergoing service or repair may be stored on-site for a maximum period of six weeks.

(d) The demolition or junking of commercial vehicles is prohibited. Commercial vehicles shall not be stored on site as a source of parts or for sale, lease, or rent.

3. Personal Vehicle Sales and Rental

(a) Accessory uses may include sales offices, parts and service facilities, body shops, and display areas.

(b) Outdoor display areas shall be paved. No such area shall exceed 60,000 square feet of continuous paved surface. In order to not be considered continuous paved surface, outdoor display areas must be separated by a Type A perimeter buffer yard, at a minimum, in accordance with Section

5.3.G, Perimeter Buffer Yards. The buffer yard may be penetrated by a driveway having a maximum width of 18 feet, spaced at least 150 feet from any other driveway along the length of the buffer yard.

(c) The storage or display of vehicles in required landscaping areas is prohibited. Vehicles for sale or rent shall not be stored in parking spaces required by Section 5.2.E, Off-street Vehicular Parking Space Standards.

4. Towing Service

(a) A towing service establishment shall not be located within a one-mile radius of any major gateways to the City, defined as the intersection of the City limits and any of the following streets:

1. NC-3;
2. NC-73;
3. Hwy 29;
4. Kannapolis Parkway;
5. Lane Street;
6. C Street;
7. Ridge Avenue;
8. Rogers Lake Road; and
9. Main Street.

(b) In the GC District, a maximum of 20 motor vehicles may be stored on the premises at any time.

(c) In the LI District, a maximum 50 motor vehicles may be stored on the premises at any one time.

(d) A minimum six-foot-high opaque fence shall surround the vehicle storage area. If the fence abuts a public street frontage, a street yard landscaping buffer shall be required between the fence and the street.

(e) Outdoor disassembly and salvaging of vehicles and parts is prohibited. The on-site sale of parts from stored vehicles is prohibited.

5. Vehicle Fueling Station

(a) The site shall have frontage on a street having a functional classification of collector or higher.

(b) New stations shall be located a minimum of 100 feet from all residential districts, residential developments, schools, and childcare centers.

(c) All above-grade equipment for the vehicular service of gasoline, oil, or other petroleum products, shall be located a minimum of 25 feet from public rights-of-way and a minimum of ten feet from adjacent parcels. Any pump island canopies shall be located a minimum of ten feet from public rights-of-way and adjacent parcels and shall have a maximum clearance height of 15 feet above grade except where state or federal law requires higher clearance.

(d) Accessory uses and structures may include car washes, bays for light vehicle maintenance and servicing, canopies, automatic teller machines (ATM's), restaurants located within the primary building, and sales of prepackaged or fountain beverages, snack foods, tobacco products, and convenience household or travel items.

(e) In all districts except the GC District, the floor area dedicated to sales and display of merchandise shall not exceed 2,000 square feet.

(f) The site shall be designed to ensure safe and efficient circulation of vehicles and pedestrians.

(g) All exterior lights shall be shielded to direct light and glare only onto the lot where the gas station is located.

(h) All utility lines on the site shall be installed underground.

h. VISITOR ACCOMMODATIONS

1. Bed and Breakfast Establishment

(a) A bed and breakfast establishment shall maintain a residential appearance.

(b) Receptions, private parties, and similar events are prohibited unless expressly approved as part of the special use permit or site plan approval.

(c) The maximum length of stay shall be 30 days.

(d) All guest rooms shall be located within the principal structure.

(e) Meals may be served to registered guests but shall not be served to the general public unless expressly approved as part of the special use permit or site plan approval. Cooking facilities are prohibited in guest rooms.

(f) The maximum number of guest bedrooms shall be five, unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging.

(g) All outdoor lights must be shielded to direct light and glare only onto the facility's premises.

(h) Signage shall be limited to one non-illuminated ground sign per establishment that shall have a maximum area of five square feet and a maximum height of five feet.

2. Short-Term Rental (as principal use)

(a) Activities on the site shall be limited to lodging.

(b) The owner or operator shall ensure that all refuse is stored in appropriate containers, and that the containers are set out for collection on the scheduled collection day and removed from the street or alley on the scheduled collection day.

(c) No display of goods, products, services, or other advertising related to the short-term rental shall be visible from outside of the dwelling.

(d) The landowner or operator of the short-term rental shall maintain liability insurance on the property covering the short-term rental use.

INDUSTRIAL USES CLASSIFICATION

i. EXTRACTION USES

1. All Extraction Uses

(a) The use shall comply with all applicable federal and state law.

(b) Heavy machinery may be used for the extraction of natural material or deposits from the site but shall not be used for washing, refining, or other processing.

(c) The use shall not be noxious, offensive, or otherwise objectionable by reason of dust, smoke, or vibration.

(d) Driveways or access points shall be located so as not to endanger pedestrians or create traffic hazards.

j. MANUFACTURING USES

1. Manufacturing, Assembly, of Fabrication, Heavy

Facilities for manufacturing concrete or cement, asphalt, synthetic stone, stucco, or similar products shall comply with the following standards:

(a) The facility shall be located a minimum of 400 feet from any residentially zoned or developed property and within 1,000 feet of Interstate 85.

(b) Outside storage shall be limited to the finished product of the on-site manufacturing only.

(c) In addition to the standards for buffers in Section 5.3, outside storage of finished product must be screened by an opaque fence that is at least eight feet in height.

(d) Manufacturing process shall not be conducted outdoors. Noxious smokestack discharge is prohibited.

k. WAREHOUSING, FREIGHT MOVEMENT, AND WHOLESALE SALES USES

1. All Warehousing, Freight Movement, and Wholesales Sales Uses

Outdoor storage is prohibited in the GC district. Any outdoor storage in the LI district shall be located to the side or rear of a principal structure and shall be screened from view from the public right-of-way.

l. WASTE-RELATED USES

1. Hazardous Materials Collection and Disposal

A special use permit or zoning compliance permit shall not be issued for a hazardous materials collection and disposal facility unless the applicant demonstrates compliance in all respects with applicable state regulations.

2. Junk/Salvage Yard

Any junkyard or salvage yard that includes outdoor storage shall comply with the following standards:

(a) Junkyards/salvage yards shall be screened in accordance with Section 5.3, Landscaping and Buffer Standards. Materials shall not be stacked so as to be visible at ground level from any public right-of- or buffer yard.

(b) Storage of vehicles or parts within required setbacks is prohibited.

(c) All tires not mounted on a vehicle shall be neatly stacked or placed in racks. The maximum height of a tire stack is six feet. No garbage or other putrescent waste that is likely to attract vermin shall be kept on the premises. Gasoline, oil, and any other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state, and local regulations. All other regulations of the state of North Carolina and the City of Kannapolis such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.

SECTION 4.3. ACCESSORY USES AND STRUCTURES

A. GENERAL

The purpose of this section is to authorize the establishment and continuation of accessory uses and structures, which are land uses and structures that are incidental and customarily subordinate to principal uses. This section identifies the zoning districts in which accessory uses and structures are allowed (Section 4.3.B, Accessory Use/Structure Table), sets out general standards applicable to all accessory uses and

structures (Section 4.3.C, General Standards for All Accessory Uses and Structures), and sets out standards that apply to particular accessory uses and structures (Section 4.3.D, Standards Specific to Accessory Uses and Structures). This section is intended to allow a broad range of accessory uses and structures, so long as they comply with the standards set forth in this section to reduce potential adverse impacts on surrounding land.

B. ACCESSORY USE/STRUCTURE TABLE

(1) TABLE ORGANIZATION

Table 4.3.B(3): Accessory Use/Structure Table, is organized as follows:

a. The left-most column in the table identifies accessory uses and structures in alphabetical order.

b. The right-most column identifies any additional standards that are specific to a particular accessory use or structure, through a reference to use-specific standards in this Ordinance, primarily in Section 4.3.D, Standards Specific to Accessory Uses and Structures.

c. The cells in the table use the following abbreviations to designate whether an accessory use or structure is allowed in the zoning district identified in the column heading.

P	**Permitted use.** A "P" in a cell of the table in a column other than a planned development district column indicates that the use in the left-most column in that row is allowed by right in the zoning district identified at the head of that column, subject to any use-specific standards referenced in the right-most column in that row and all other applicable requirements of this Ordinance. A "P" in a cell of the table in a planned development district column means that the use is allowed in the type of planned development district identified at the head of that column only if so specified in the PD Plan for the particular district, subject to all other applicable requirements of this Ordinance, unless expressly modified in the PD Plan or PD Agreement for the district (see Section 3.7.A(3)a, Planned Development (PD) Plan, and Section 3.7.A(3)b, Planned Development (PD) Agreement).
S	**Special use.** An "S" in a cell of the table indicates that the use in the left-most column in that row is allowed in the zoning district identified at the head of that column upon approval of a special use permit in accordance with Section 2.5.A(5), Special Use Permit. Uses requiring a special use permit are subject to all other applicable requirements of this Ordinance.
-	**Prohibited Use.** A " – " in a cell of the table indicates that the use in the left-most column in that row is prohibited in the zoning district identified at the head of that column.

(2) UNLISTED ACCESSORY USES

The Planning Director shall determine whether or not an unlisted accessory use is similar to an accessory use identified in Table 4.3.B(3): Accessory Use/Structure Table, in accordance with Section 2.5.E(1), Interpretation. In making the interpretation, the Planning Director shall consider the following:

a. Accessory uses identified in Section 4.2.C(8), Interpretation of Unlisted Uses;

b. The definition of "accessory use" (see Article 10, Definitions), and the general accessory use standards established in Section 4.3.C, General Standards for All Accessory Uses and Structures;

c. The additional standards for specific accessory uses established in Section 4.3.D;

d. The purpose and intent of the zoning district in which the accessory use or structure is located (see Article 3, Zoning Districts);

e. Any potential adverse impacts the accessory use or structure may have on other lands in the area, compared with other accessory uses or structures permitted in the zoning district; and

f. The compatibility of the accessory use or structure, including the structure in which it is housed, with other principal and accessory uses permitted in the zoning district.

(3) ACCESSORY USE/STRUCTURE TABLE

Table 4.3.B(3): Accessory Use/Structure Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Accessory Use/Structure	AG	Residential							Mixed-Use						Nonresidential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-TND	PD-C	CD	CD-R	C-1	
Accessory dwelling unit	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	4.3.D(1)
Antenna support structure (amateur radio)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.3.D(2)
Animal boarding	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.3.D(3)
Apiary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.3.D(4)
Automated teller machine (ATM)	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	4.3.D(5)
Bike share station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Crematory (as accessory use to funeral home or mortuary)	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-	P	P	P	-	-	-	
Community garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	
Composting (small-scale)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Drive-through facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-	4.3.D(8)
Electric vehicle (EV) level 1 or 2 charging station	P	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.3.D(9)
Electric vehicle (EV) level 3 charging station	P	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.3.D(9)
Electronic gaming operation (as accessory use)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.3.D(10)
Garage or carport	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
Greenhouse	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	P	P	-	P	P	P	-	-	P	
Home occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	-	-	P	P	-	P	-	P	4.3.D(11)
Ice vending machine	P	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	4.3.D(12)
Laundromat (as accessory use)	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	-	-	-	P	P	P	-	P	-	
Limited fuel/oil/gas distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	P	-	-	4.3.D(13)
Livestock, Keeping of	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.3.D(14)
Outdoor display of merchandise (as accessory to a retail sales use or wholesale sales)	P	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	-	-	-	-	P	-	-	4.3.D(15)
Outdoor seating/activity area (as accessory to an eating or drinking establishment use)	P	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	4.3.D(16)
Outdoor storage area	P	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-	-	4.3.D(15)

Table 4.3.B(3): Accessory Use/Structure Table

P = Permitted by right, or, in planned development district, if specified in PD Plan; **S** = Special use; **–** = Prohibited

Accessory Use/Structure	AG	Residential							Mixed-Use						Nonresidential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-N	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-TND	PD-C	CD	CD-R	C-1	
Poultry, Keeping of	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	4.3.D(18)
Private recreation facility (as accessory to a residential development)	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
Produce stand (as accessory use to community garden)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	4.3.D(17)
Rainwater cistern or barrel	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.3.D(20)
Short-term rental, homestay	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	-	-	P	P	P	-	P	-	4.3.D(21)
Solar energy conversion system (small-scale)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.3.D(22)
Stable, Private	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.3.D(14)
Storage building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Swimming pool (accessory use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	P	P	P	P	-	4.3.D(23)
Temporary family health care structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Wind energy conversion system (small-scale)	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	-	-	-	4.3.D(25)
Wireless telecommunications antenna or tower	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	4.2.D(4)a.1

C. GENERAL STANDARDS FOR ALL ACCESSORY USES AND STRUCTURES

(1) APPLICABILITY

All accessory uses and structures shall comply with the standards in this section, except the following accessory uses and structures are exempt from the provisions of this subsection:

a. Fencing and walls;

b. Mailboxes;

c. Plant materials; and

d. Any structure or improvement that does not exceed a height of one foot above grade.

(2) NOT ESTABLISHED PRIOR TO PRINCIPAL USE

Accessory uses and structures shall not be established prior to the establishment of the principal use on the lot.

(3) LOCATION ON LOT

a. Accessory uses and structures shall only be located in side and rear yards, except on residential lots exceeding two acres, detached accessory buildings may be located in the front yard if they are setback a minimum of 75 feet from the front property line not visible from a public street.

b. Except as otherwise specified in this Ordinance, accessory uses and structures shall be set back the following minimum distances from the side and rear lot lines:

1. Ten feet in the AG and MU-N districts; and

2. Five feet in all other districts.

c. Accessory structures shall not be erected within three feet of a principal structure. Accessory structures that are located within three feet of a principal structure shall be considered as additions to the principal structure and shall conform to all applicable setbacks.

(4) MAXIMUM COVERAGE IN REAR YARD

On residential lots having an area of two acres or less, the total area occupied by accessory structures in the rear yard shall not exceed 30 percent of the rear yard.

(5) MAXIMUM HEIGHT

Accessory structures shall be subject to the same maximum building height standards that apply to principal structures in the district in which they are located, except accessory structures located within a required minimum yard shall have maximum height of 15 feet.

(6) EXTERIOR LIGHTING

Exterior lighting of accessory uses and structures shall not direct or reflect light upon adjoining land.

D. STANDARDS SPECIFIC TO ACCESSORY USES AND STRUCTURES

The standards set forth in this subsection for a specific accessory use or structure shall apply to the particular individual accessory use or structure, regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance.

(1) ACCESSORY DWELLING UNIT (ADU)

a. GENERAL STANDARDS

1. An accessory dwelling unit (ADU) must comply with all applicable local, State and Federal housing codes.

2. Only one accessory dwelling unit shall be permitted per lot.

3. The accessory dwelling unit shall comply with all dimensional and design requirements that apply to a principal structure in the zoning district where it is located.

b. ACCESSORY TO COMMERCIAL OR INDUSTRIAL USE

An accessory dwelling unit (ADU) that is accessory to a commercial or industrial use shall comply with the following standards, in addition to the standards in subsection a above.

1. The ADU shall be located on the same premises as the business where one residing family member is employed.

2. If located in a structure detached from the principal structure, the exterior of the ADU shall be compatible with the principal structure in terms of architectural materials and appearance.

3. The use of a manufactured home as an ADU is prohibited.

c. ACCESSORY TO RESIDENTIAL USE

An accessory dwelling unit (ADU) that is accessory to a residential use shall comply with the following standards, in addition to the standards in subsection a above:

1. An ADU shall only be allowed on a lot on which a single-family detached dwelling is the principal use that is permitted in the zoning district where it is located.

2. Either the principal dwelling or the ADU shall be the primary residence of the landowner.

3. An ADU shall be located within or to the rear of the principal building, except that in the AG or R1 zoning districts on lots greater than ten acres, an ADU may also be sited to the side of the principal building.

4. An ADU shall not have a floor area that exceeds 50 percent of the floor area of the primary structure or 1,100 square feet, whichever is less.

5. If located a structure detached from the principal structure, the exterior of the ADU shall be compatible with the principal structure in terms of color, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance.

6. Manufactured homes shall be permitted only in the MHO Manufactured Home Overlay District.

7. Adequate parking shall be provided to serve the residents of the ADU.

(2) ANTENNA SUPPORT STRUCTURE (AMATEUR RADIO)

Any number of antenna support structures are permitted on a lot in accordance with the following standards:

a. In Residential districts, the maximum height of an antenna support structure shall be 75 feet.

b. Antenna support structures shall not be located in the front yard, except where necessary to achieve acceptable signal quality.

c. Reasonable and customary engineering practices supplied by the support structure's manufacturer shall be followed in the erection of amateur radio antennas.

(3) ANIMAL BOARDING

Any use that includes the commercial boarding of live animals other than livestock or poultry, including but not limited to as a part of veterinary hospitals and kennels, shall comply with the following standards:

a. Facilities for boarding animals shall be located a minimum of 150 feet from any residentially zoned or developed property and shall not store animal wastes within 50 feet of any property line surface waters.

b. Areas where animals are kept that are not wholly enclosed within a building shall be enclosed by a minimum six-foot-high security fence.

(4) APIARY

Five (5) or fewer hives shall be allowed in any zoning district.

a. The hives shall be placed at ground level or securely attached to an anchor or stand. The hive may also be permanently attached to a roof surface if secured to an anchor or stand.

b. The hive shall be removed if the owner no longer maintains the hive or if necessary to protect the health, safety, and welfare of the public. (Source NCGS § 106-645). City staff will consult a trained or knowledgeable beekeeper if it is determined that a hive may need to be removed.

c. More than five (5) hives shall be considered agriculture for the purpose of this ordindance.

(5) AUTOMATED TELLER MACHINE (ATM)

a. An automated teller machine (ATM) designed for walk-up use and located in the exterior wall of a building or within a parking area shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, and between parking areas and building entrances, and obstructions to vehicular movement in front of buildings and through parking areas.

b. An ATM designed for use by people in vehicles shall comply with the standards (including districts where permitted) that apply to drive-through facilities (see Section 4.3.D(8), Drive-Through Facility).

(6) COMPOSTING (SMALL SCALE)

Composting areas shall be set back a minimum of twenty feet from all occupied buildings and outdoor gathering areas, such as decks and patios, on abutting lots.

(7) CREMATORY (AS ACCESSORY USE TO FUNERAL HOME OR MORTUARY)

a. The use shall comply with all applicable federal and state law.

b. In the Mixed-Use districts and in the OI and PD-TND districts, the use shall include a maximum of two cremation chambers.

(8) DRIVE-THROUGH FACILITY

A drive-through facility shall comply with the following standards:

a. Canopies or other features installed over a drive through window shall maintain common roof lines and materials with the principal structure.

b. Vehicular access to a drive-through facility shall be provided from a street having a functional classification of collector or higher.

c. Each driveway providing access to the drive-through facility shall be at least 20 feet from any other driveway.

d. Internal traffic circulation patterns on the site shall not cause vehicles to impede vehicular movement external to the site or block access to any required parking spaces located on the site. Stacking spaces and lanes shall be provided in accordance with Section 5.1.C(9), Vehicle Stacking Spaces and Lanes.

e. Drive-through facilities shall not be located on the front façade of the building they serve.

f. Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians along sidewalks, through areas intended for public use, or between the building entrance and customer parking spaces.

g. No portion of a drive-through facility shall be located within 50 feet of a residential zoning district or a lot containing a residential use.

(9) ELECTRIC VEHICLE (EV) LEVEL 1, 2, OR 3 CHARGING STATION

a. Except as otherwise provided in subsection b below, EV charging station spaces shall be reserved for the charging of electric vehicles only. Such reserved spaces shall be posted with signage identifying the spaces as reserved only for the charging of electric vehicles, the amperage and

voltage levels, any enforceable time limits or tow-away provisions, and contact information for reporting non-operating equipment or other problems.

b. A required accessible parking space for persons with physical disabilities may also serve as an EV charging station space, provided the charging station and its controls meet ADA standards for accessibility to persons with physical disabilities.

c. EV charging station equipment shall be located so as not to interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.

(10) ELECTRONIC GAMING OPERATION (AS ACCESSORY USE)

An electronic gaming operation as an accessory use shall comply with the standards in Section 4.2.D(5)e.1, Electronic Gaming Operation.

(11) HOME OCCUPATION

a. PURPOSE

This section establishes standards for home occupations as an accessory use to dwelling units in agricultural and residential districts in order to:

1. Ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;

2. Ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the home occupation to the extent that usage exceeds that which is normally associated with residential use;

3. Allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, subject to specified standards;

4. Enable the fair and consistent enforcement of these home occupation regulations; and

5. Promote and protect the public health, safety and general welfare.

b. APPLICABILITY

The standards in this section apply to all home occupations. A home occupation permit shall be required prior to the establishment of a home occupation in accordance with Section 2.5.C(5), Home Occupation Permit.

c. HOME OCCUPATION STANDARDS

A home occupation shall comply with the following standards.

1. The use shall be clearly incidental and secondary to residential occupancy.

2. The use shall be conducted entirely within the interior of the residence. Exception may be made for outside play areas of childcare facilities.

3. The use shall not change the residential character of the dwelling.

4. The use shall conform with applicable state and local laws.

5. The home occupation shall be operated by a resident of the premises.

6. A maximum of one non-resident employee may participate in the home occupation on the premises, except in the AG District on a lot greater than two acres in area, a maximum of three non-resident employees may participate in the home occupation on the premises.

7. A maximum of nine client visits related to the home occupation shall be permitted each day. Such client visits shall be limited to the period between 8:00 a.m. and 8:00 p.m.

8. A maximum of 25 percent of the gross floor area of the principal dwelling structure may be used for the home occupation.

9. Childcare provided on site for compensation shall be limited to a maximum of eight children.

10. Any equipment used for the home occupation must be safely accommodated by existing public facilities and utilities.

11. Storage of goods, materials, and materials used in the home occupation shall be permitted indoors only and shall not include storage of flammable, combustible, or explosive materials in greater quantities than is typical of a household setting.

12. Parking spaces shall be provided on the premises sufficient to accommodate all parking needs generated by the home occupation.

13. A maximum of three vehicles use to conduct the home occupation may be stored or regularly parked on-site, provided, such vehicles must be owned and/or operated by residents of the premises.

14. The generation of dust, odors, noise, vibration, or electrical interference or fluctuation that is perceptible beyond the property line is prohibited.

15. Deliveries and pickups shall not occur more frequently than is typical of a residence and shall

(a) Not block traffic circulation; and

(b) Be limited to the period between 6:00 a.m. and 8:00 p.m. Monday-Saturday.

16. Accessory Buildings shall not be used for home occupation purposes, except in the AG District on a lot greater than two acres in area.

17. Signage associated with the home occupation shall:

(a) Be limited to one sign having a maximum area of four square feet;

(b) Be mounted flush against the wall of principal dwelling unit; and

(c) Not be illuminated.

d. PROHIBITED HOME OCCUPATIONS

The following are prohibited as home occupations:

1. Medical or dental office/clinic;

2. Sexually-oriented businesses;

3. Animal Care uses;

4. Eating or Drinking Establishments uses;

5. Funeral and Mortuary Services uses;

6. Art, music, dance, yoga, or martial arts studio or school;

7. Tattoo or body-piercing establishment;

8. Recreation/Entertainment uses;

9. Retail sales uses;

10. Vehicle sales and service uses;

11. Industrial uses other than manufacturing, assembly, or light fabrication; and

12. Any home occupation that becomes dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents, or businesses.

(12) ICE VENDING MACHINE

a. A freestanding ice vending machine shall meet the minimum setback requirements that apply to principle uses in the zoning district in which it is located.

b. Freestanding ice vending machines shall not be allowed in required parking areas, loading areas, or buffers.

c. A roof structure constructed of either metal or wood shall be required to screen the mechanical equipment and other rooftop appurtenances. Fabric screening is prohibited.

d. A planted buffer area with a minimum width of 24 inches shall be established around three sides of the base of the unit with evergreen shrubs spaced a maximum of 18 inches on center. Alternatives to the buffer area requirement may be allowed, so long as the original intent of the requirements is met. Machines located on individual lots shall meet all other landscaping requirements.

e. Safety barriers shall be covered with a wood or brick façade.

f. At least one individual parking space and one van accessible handicapped parking space shall be provided.

g. All wheels, hitches, axels, transporting lights, and removable towing apparatus shall be permanently removed prior to approval of the certificate of compliance.

(13) LIMITED FUEL/OIL/BOTTLED GAS DISTRIBUTION

a. Limited fuel/oil/bottled gas distribution is allowed as an accessory use to consumer goods establishments, grocery stores, and gas stations.

b. Any structure housing fuel, oil, or bottled gas that is located on a sidewalk or other walkway shall be located to maintain at least five feet of clearance along the walkway for use by pedestrians.

c. Limited fuel/oil/bottled gas distribution as an accessory use is prohibited within 1,000 feet of a school or hospital.

(14) LIVESTOCK, KEEPING OF

a. APPLICABILITY

This section applies to the keeping of livestock. This section shall not apply to lands in the AG District or to the keeping of poultry or dogs, cats, or other similar household pets.

b. STANDARDS

The keeping, maintaining, or stabling of livestock in residential zoning districts is subject to the following standards.

1. The minimum lot size is two acres.

2. The keeping of livestock shall be limited to one animal unit per 6,000 square feet of land.

3. A fence shall be provided to ensure the livestock are kept a minimum of 150 feet from any dwelling unit, except where the keeping of livestock was established prior to the dwelling unit, provided such keeping of livestock shall not be expanded further toward the newly-established dwelling unit.

(15) OUTDOOR DISPLAY OF MERCHANDISE (AS ACCESSORY TO A RETAIL SALES USE)

Outdoor display of merchandise is allowed as an accessory use to any retail sales use that is conducted within a building located on the same lot, subject to the following standards:

a. Merchandise displayed shall be limited to that sold or rented by the principal use.

b. Merchandise displayed shall not include hazardous and flammable materials, such as gasoline, oil, antifreeze, kerosene, poisons, pesticides, and similar items.

c. All outdoor display of goods shall be located immediately adjacent to the front or side of the principal building, and not in drive aisles, loading zones, fire lanes, or parking lots.

d. Outdoor display areas shall be located to maintain a clearance area in front of primary building entrances for at least ten feet directly outward from the entrance width.

e. An obstruction-free area at least five feet wide shall be maintained through the entire length of the display area or between it and adjacent parking areas so as to allow pedestrians to safely and conveniently travel between parking areas or drive aisles to the building and along the front and side of the building, without having to detour around the display area.

f. Booths, stalls, and materials on display shall not be located within required setback areas.

g. Outdoor display areas shall not be located in such a manner as to displace or otherwise interfere with any required parking spaces and maneuvering areas.

h. Outdoor storage areas shall be prohibited within 30 feet of any public street right-of-way and within 100 feet of residential uses and/or residential zoning districts. This prohibition shall not apply to nursery stock in non-residential zoning districts.

i. Non-enclosed areas for the storage and sale of seasonal inventory shall be:

1. Identified on an approved site plan;

2. Completely screened from view from public street rights-of-way and adjacent residential districts using walls or fences; and

3. Comprised of materials, colors, and design of screening walls or fences that are consistent with those used as in the principal structure. If such areas are to be covered, the covering shall conform to the exposed roofing colors on the building.

(16) OUTDOOR SEATING/ACTIVITY AREA (AS ACCESSORY TO AN EATING OR DRINKING ESTABLISHMENT)

Outdoor seating/activity areas as an accessory use to any eating or drinking establishment shall comply with the following standards:

a. Hours of operation of the outdoor seating area shall be the same as those for the eating or drinking establishment.

b. Food preparation shall occur only within the enclosed principal building containing the eating or drinking establishment.

c. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use. A clear pathway at least five feet wide shall be maintained to allow through public pedestrian traffic along the sidewalk and from the sidewalk into the entrance to the establishment. A greater width may be required where necessary to ensure the safe and convenient flow of pedestrian traffic.

(17) OUTDOOR STORAGE

a. STORAGE OF COMMERCIAL, RECREATIONAL, AND WATERCRAFT VEHICLES

1. Applicability

(a) Unless exempted by subsection (b) below, the parking of commercial vehicles, recreational vehicles, and watercraft vehicles (see Article 10: Definitions) shall comply with the standards in this section.

(b) The following are exempt from the requirements of this subsection:

1. Vehicles engaged in Bona fide farming operations;

2. Vehicles designed and operated in conjunction with typical residential purposes such as lawn mowers and garden tractors;

3. Vehicles engaged in loading or unloading household goods for a period of up to 48 hours;

4. Vehicles located on a lot containing a civic/institutional use which are necessary for normal operations; and

5. Emergency vehicles and vehicles used to carry out official government functions.

2. Commercial Vehicles

The parking of commercial vehicles (see Article 10: Definitions) is prohibited in residential districts.

3. Recreational Vehicles

(a) A maximum of one recreational vehicle may be parked/stored for any period exceeding 60 days on any lot within a residential district.

(b) Recreational vehicles shall not be occupied for a period exceeding thirty days.

(c) The parking/storage of recreational vehicles is prohibited in front yards in Residential districts.

4. Watercraft Vehicles

The parking/storage of watercraft vehicles is prohibited in front yards in Residential districts.

b. OUTDOOR STORAGE AREAS

Outdoor storage areas, other than storage areas associated with agricultural uses and outdoor display of merchandise in accordance with Section 4.3.D(15), shall comply with the standards in this section.

1. In Residential districts, the following outdoor storage uses are prohibited:

(a) Storage of junk or salvage, including but not limited to scrap metal, used boxes or crates, used appliances, salvaged furniture or glassware, and salvaged automobiles or automobile parts

(b) Storage in connection with a trade; and

(c) Storage of building materials except in connection with active construction.

2. Outdoor storage areas are prohibited within 50 feet of any public street right-of-way and within 100 feet of residential uses or residential districts. This provision shall not apply to outdoor storage of nursery stock in non-residential zoning districts.

3. Outdoor storage areas are prohibited in front yards.

4. Except as otherwise provided by Section 4.2.D(5)l.2, Junk/Salvage Yard, outdoor storage areas shall comply with the following screening requirements.

(a) Such areas shall be completely screened from view at ground level from all rights-of-way, lots containing residential uses, and residential districts.

(b) Screening shall be constructed of durable, weather-proof, permanent materials such as concrete or stone block, metal, vinyl, wood, or similar material, and shall use materials and color that are consistent and compatible with those of the principal building(s) on the site.

(c) Fences constructed of chain link and fabric mesh or of sheet metal and barbed and razor wire, with or without slats of wood or metal inserted, shall not be considered as sufficient to screen outdoor storage areas.

(d) Except for integral units (see Article 10: Definitions), stored items shall not project above the screening.

5. Vehicles in need of major repair may be stored outdoors within an area screened from view from all public rights-of-way and adjacent property lines. This requirement shall not apply to vehicles scheduled for immediate repair that are stored on-site for no more than five working days (unless evidence can be provided to the Planning Director to indicate circumstances, such as part availability, prevent repair in within the five day period).

6. Outdoor storage areas associated with a consumer goods establishment shall not occupy more than 50 percent of the lot area.

7. No materials shall be stored in areas intended for vehicular or pedestrian circulation.

(18) POULTRY, KEEPING OF

The keeping of poultry as an accessory use shall comply with the following standards in all districts where it is allowed, except lands in the AG district are not subject to these standards:

a. The keeping of poultry is allowed as an accessory use to a single-family detached dwelling on any lot that is at least one-half acre in area.

b. All poultry shall be kept within an area that is completely enclosed by a fence or other enclosure. The enclosed area where the poultry are kept shall be located to the side or rear of the principal dwelling and shall be set back at least 10 feet from all lot lines when completely screened from view from the abutting property or at least 20 from lot lines when not so screened.

c. The keeping of roosters is prohibited.

d. Up to six total chickens or other poultry may be kept on a lot that is between one-half acre and one acre in area.

e. Up to 12 chickens or other poultry may be kept on a lot that is one acre or more in area.

(19) PRODUCE STAND (AS ACCESSORY USE TO A COMMUNITY GARDEN)

A produce stand that is an accessory use to a community garden shall comply with the following standards:

a. The produce stand shall not exceed 750 square feet in area and shall not be more than 15 feet in height.

b. The produce stand shall be located on the lot where the community garden is located.

c. The produce stand shall be:

1. Limited to the retail sale of vegetables, fruits, or flowers grown on the premises.

2. Located to minimize the visual impact of the structure from adjacent public streets.

3. Situated so that adequate ingress, egress, and off-street parking areas are provided.

(20) RAINWATER CISTERN OR BARREL

An aboveground rainwater cistern or barrel is allowed as an accessory use or structure to any principal use or structure, subject to the following requirements:

a. The cistern or barrel shall be located directly adjacent to the principal structure on the lot; and

b. The cistern or barell shall not serve as signage or have signage affixed to it.

(21) SHORT-TERM RENTAL, HOMESTAY

a. The rental shall be managed by a person who: 1) is a full-time resident of the property; and 2) is present during the rental term for the entire time lodgers are staying at the property. To be a "full time resident," the person must reside on the property on a permanent basis, and it must be the person's primary home.

b. A maximum of one homestay is allowed on the premises at any one time.

c. In the R2 and R4 disricts, a maximum of 24 homestays are allowed in any calendar year.

d. The use of an accessory dwelling unit that is detached from the principal structure to house lodgers is prohibited.

e. A minimum of one off-street parking space shall be provided for the homestay short-term rental, unless adequate on-street parking is available for the use. In no case shall the total number of parking spaces on the lot exceed four.

f. The owner or operator shall maintain liability insurance on the property, which covers the homestay use and homestay guests.

g. No display of goods, products, services, or other advertising related to the rental shall be visible from outside of the dwelling.

h. The landowner shall maintain liability insurance on the property covering the rental use.

i. The use of the premises for events or other non-lodging activities related to the rental is prohibited.

j. The owner shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day, and the carts removed from the street or alley on the scheduled collection day.

(22) SOLAR ENERGY CONVERSION SYSTEM (SMALL-SCALE)

Small-scale solar energy conversion systems shall comply with the following standards:

a. Solar energy equipment may be located on the roof of a principal or accessory structure, on the side of such structures, on a pole, or on the ground in accordance with Section 4.3.C, General Standards for All Accessory Uses and Structures. Building-mounted photovoltaic systems are permitted in all districts subject to all necessary permit and building code requirements.

b. A roof-mounted system may exceed the height standards of the district in which it is located by up to five feet, or, in the case of an existing structure that exceeds the maximum height standards of the district in which it is located, the system may extend up to five feet above the roof surface.

c. Solar energy equipment shall be oriented so as to avoid casting glare onto adjacent lots.

d. The property owner shall be responsible for negotiating with other property owners in the vicinity to establish any solar easement designed to protect solar access for the system, and for recording any such solar easement with the appropriate County.

(23) SWIMMING POOL

a. Any pool containing at least 450 square feet of water surface area or having a depth of 36 inches or greater at its shallowest point shall be either:

1. Enclosed by any combination of the principal building, accessory buildings, solid walls, and protective fences having a minimum height of four feet; or

2. Covered by a pool cover whenever the pool is not in use.

b. The swimming pool shall be set back a minimum of five feet from all lot lines.

c. Private swimming pools located in nonresidential zoning districts shall be screened from view of adjacent properties.

(24) TEMPORARY FAMILY HEALTH CARE STRUCTURE

a. PURPOSE

This section establishes standards for temporary family health care structures.

b. DEFINITIONS

The following terms shall have the definitions provided in this section:

ACTIVITIES OF DAILY LIVING – Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

CAREGIVER -- An individual eighteen (18) years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.

FIRST- OR SECOND-DEGREE RELATIVE - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

MENTALLY OR PHYSICALLY IMPAIRED PERSON - A person who is a resident of North Carolina and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in North Carolina.

c. WHEN PERMITTED

Subject to the requirements of this section, a maximum of one temporary family health care structure is permitted as an accessory use to a single-family detached dwelling that is allowed in the zoning district where it is located when the structure is used:

1. By a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence; or

2. By an individual who is the named legal guardian of the mentally or physically impaired person and the structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

d. STANDARDS

1. A temporary family health care structure shall comply with the setback requirements that apply to the primary structure on the site.

2. No signage may be placed on the exterior of the structure.

e. PERMIT REQUIRED

A permit is required before any temporary family health care structure may be installed on a site. The applicant shall submit an application on a form provided by the Administrator, along with any required fee. The Administrator shall review the form and issue a permit upon determining that the application demonstrates that the proposed temporary family health care structure complies with

the requirements of this section. A permit issued in accordance with the section is valid for one year and an applicant may file an application for renewal.

f. REMOVAL OF STRUCTURE

Any temporary family health care structure installed pursuant to this section shall be removed within sixty (60) days of the date on which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance with two or more activities of daily living as provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within sixty (60) days of its removal, as applicable.

(25) WIND ENERGY CONVERSION SYSTEM (SMALL-SCALE)

Small-scale wind energy conversion systems shall comply with the following standards:

a. Tower-mounted small-scale wind energy conversion systems shall not be located within a front yard, except in the AG District.

b. A small-scale wind energy conversion system shall be set back a distance equal to its total extended height (e.g., if on a roof, roof height plus the height of any tower extending from the roof), plus five feet from all property lines, public street rights-of-way, and overhead utility lines. Guy wires and other support devices shall be set back at least five feet from all property lines.

c. The maximum height of a small-scale wind energy conversion system (including the tower and extended blades) shall be the maximum height allowed in the zoning district plus 25 feet.

d. Sound produced by the wind turbine under normal operating conditions, as measured at the property line abutting an existing residential use, shall not exceed 55 dBA at any time. The 55 dBA sound level, however, may be exceeded during short-term events that occur beyond the property owner's control, such as utility outages and/or severe wind storms.

e. The wind turbine and tower shall be painted or finished in the color originally applied by the manufacturer, or a matte neutral color (e.g., gray, white) that blends into a range of sky colors, or a color consistent with that of the buildings on the site. Bright, luminescent, or neon colors are prohibited.

f. The blade tip or vane of any small-scale wind energy conversion system shall have a minimum ground clearance of 15 feet, as measured at the lowest point of the arc of the blades. No blades may extend over parking areas, public right of ways, driveways, or sidewalks.

g. No illumination of the turbine or tower shall be allowed unless required by the Federal Aviation Administration (FAA).

h. On a freestanding tower, any climbing foot pegs or rungs below 12 feet shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed.

i. A wind generator, tower, building, or other structure associated with a small-scale wind energy conversion system shall not include any signage visible from any public street other than the signage installed by the manufacturer or signage required by local, state, of federal law.

j. A small-scale wind energy conversion system intended to connect to the electric utility shall not be installed until evidence has been provided to the Planning Director that the relevant electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

k. If use of the facility is discontinued for a continuous period of one year, the City shall deem it abandoned and provide the owner a written notice of abandonment stating that the owner has 90

days from the date of receipt of the notice to either resume use of the facility or file a notice of termination with the City. The owner shall remove the facility (including all towers, turbines, and above-ground structures and equipment) within 90 days after a notice of termination is filed.

SECTION 4.4. TEMPORARY USES AND STRUCTURES

A. GENERAL

The purpose of this section is to authorize the establishment of certain temporary uses and structures, which are uses and structures of a limited duration. This section identifies the zoning districts in which temporary uses and structures are allowed, sets out general standards applicable to all temporary uses and structures, and sets out any special standards applicable to particular temporary uses and structures. This section is intended to ensure that such uses or structures do not negatively affect adjacent land, are discontinued upon the expiration of a set time period, and do not involve the construction or alteration of any permanent building or structure.

B. TEMPORARY USE/STRUCTURE TABLE

(1) ORGANIZATION

Table 4.4.B: Temporary Use/Structure Table, identifies the temporary uses and structures alphabetically.

(2) ABBREVIATIONS IN USE TABLE CELLS

Table 4.4.B: Temporary Use/Structure Table, uses the following abbreviations to designate whether and how a temporary use is allowed in a particular zoning district.

P	**Permitted use.** A "P" in a cell of the table in a column other than a planned development district column indicates that the use in the left-most column in that row is allowed by right in the zoning district identified at the head of that column, subject to any use-specific standards referenced in the right-most column in that row and all other applicable requirements of this Ordinance. A "P" in a cell of the table in a planned development district column means that the use is allowed in the type of planned development district identified at the head of that column only if so specified in the PD Plan for the particular district, subject to all other applicable requirements of this Ordinance, unless expressly modified in the PD Plan or PD Agreement for the district (see Section 3.7.A(3)a, Planned Development (PD) Plan, and Section 3.7.A(3)b, Planned Development (PD) Agreement).
-	**Prohibited Use.** " – " in a cell of the table indicates that the use in the left-most column in that row is prohibited in the zoning district identified at the head of that column.

(3) REFERENCE TO USE-SPECIFIC STANDARDS

A particular temporary use or structure identified as permitted in a zoning district may be subject to additional standards that are specific to the particular use. The applicability of such use-specific standards is noted in the right-most column of Table 4.4.B: Temporary Use/Structure Table, through a reference to standards in Section 4.4.D, Standards Specific to Temporary Uses and Structures.

(4) UNLISTED TEMPORARY USES

The Planning Director shall determine whether or not an unlisted temporary use or structure is substantially similar to a listed temporary use and structure, and is allowed.

(5) TEMPORARY USE/STRUCTURE TABLE

Table 4.4.B: Temporary Use/Structure Table

P = Permitted by right **–** = Prohibited

Temporary Use/Structure	AG	Residential							Mixed-Use						Nonresidential				PD			Legacy			Use-Specific Standards
	AG	R1	R2	R4	R6	R7	R8	R18	MU-ND	MU-SC	MU-UC	MU-AC	TOD	CC	OI	GC	LI	HI	PD	PD-TND	PD-C	CD	CD-R	C-1	
Camping	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	P	P	P	P	P	4.4D(12)
Construction-related temporary structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.4.D(1)
Donation bin	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.4.D(2)
Farmers' market (as temporary use)	P	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-	P	P	P	P	-	P	4.4.D(3)
Flea market (as temporary use)	-	-	-	-	-	-	-	-	-	P	-	-	-	P	-	P	-	-	-	-	-	-	-	-	4.4.D(4)
Mobile food vending	P	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-	P	P	P	P	-	P	4.4.D(5)
Model sales home/unit	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	-	4.4.D(6)
Outdoor sales	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	-	-	P	-	-	-	P	4.4.D(7)
Religious or non-profit events, onsite	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Seasonal sale	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	-	-	-	P	-	P	-	P	4.4.D(8)
Special event	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	-	-	-	P	P	P	-	P	4.4.D(9)
Storage in portable shipping container	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.4.D(10)
Yard Sale	P	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	4.4.D(11)

C. GENERAL STANDARDS FOR ALL TEMPORARY USES AND STRUCTURES

(1) TEMPORARY USE PERMIT

a. Approval of a temporary use permit in accordance with Section 2.5.C(4), Temporary Use Permit, is required prior to the establishment of a temporary use or structure allowed by this section, except the following temporary uses do not require a temporary use permit:

1. Yard sales;

2. Storage in a portable shipping container;

3. Special events identified as not requiring a temporary use permit by Section 4.4.D(9)a, Applicability;

4. Camping.

b. A temporary use permit shall specify the date on which it becomes effective and the period of time during which it is effective. An applicant may request and the Planning Director may approve extensions to the effective period of a temporary use permit, up to the maximum time allowed for the use by Table 4.4.C(1): Temporary Use Permit Time Lengths. After a temporary use permit expires, an applicant may submit a subsequent application for a temporary use permit on the same parcel during the same fiscal year (July 1 through June 30) only after the time period between permits specified in Table 4.4.C(1).

Table 4.4.C(1): Temporary Use Permit Time Lengths

Temporary Use/Structure Type	Minimum Time Between Permits [1]	Maximum Time Allowed [2]
Construction-related temporary structure	None	1 year
Farmers' market, Temporary	None	30 days
Flea market, Temporary	None	30 days
Mobile Food Vending	None	90 days
Model sales home/unit	None	3 years [3]
Sales, outdoor	Promotional activity: 1 day Sidewalk vendor: 90 days	Promotional activity: 21 days Sidewalk vendor: 90 days
Seasonal Sales	Fireworks stand: 90 days All others: None	Fireworks stand: 45 days All others: 180 days
Special event	Carnivals, circuses, fairs, amusement rides, and similar amusement enterprises: 90 days All others: None	Carnivals, circuses, fairs, amusement rides, and similar amusement enterprises: 21 days On-site religious or non-profit events: None All others: 60 days

NOTES:

[1] The minimum period of time between an expired temporary use permit on a parcel and application for another temporary use permit on the same parcel per fiscal year (July 1st to June 30th).

[2] The maximum period of time of validity of the temporary use permit. Even if at any time the temporary use does not occupy the permitted site, the limit shall not be extended, except as expressly allowed for the specific use by Section 4.4.D, Standards Specific to Temporary Uses and Structures.

[3] The temporary use permit shall remain valid no longer than the time required for the construction of the development

c. The temporary use permit required by subsection a above, shall be prominently displayed on the site.

d. The issuance of a temporary use permit for the use of a recreational vehicle is prohibited.

(2) LANDOWNER PERMISSION REQUIRED

A temporary use or structure shall not be established or placed on a parcel of land unless approved by the landowner in writing.

(3) LOCATION

a. Temporary uses and structures shall not be located in required yards or rights-of-way, except in the CC District.

b. A temporary use or structure shall not be located in a sight triangle or required buffer, nor shall it impede use of any required parking space, drive aisle, loading or service area, pedestrian walkway, emergency access, or fire lane.

(4) PARKING, ACCESS, AND CIRCULATION

a. Adequate off-street parking shall be provided to serve the use.

b. The site, including entrance and exit drives, shall be designed to ensure safe movement of vehicles and pedestrians.

c. The use or structure shall be located and configured to accommodate associated pedestrian, parking, and traffic movement without disturbing environmentally sensitive lands or creating traffic hazards.

(5) PROHIBITED ACTIVITIES

A temporary use or structure shall not:

a. Include permanent alterations to a site;

b. Interfere with the normal operations of any permanent use located on the site;

c. Violate any conditions of approval that apply on the site;

d. Maintain any temporary sign associated with the temporary use or structure after the activity ends; or

e. Adversly affect the existing land uses in the immediate vacinity based on the location of the temporary use or structure or its potential generation of noise, odor, light, or dust.

D. STANDARDS SPECIFIC TO TEMPORARY USES AND STRUCTURES

The standards set forth in this subsection for a specific temporary use or structure shall apply to the particular individual temporary use or structure, regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance.

(1) CONSTRUCTION-RELATED TEMPORARY STRUCTURE

A construction-related temporary structure shall comply with the following standards:

a. The temporary structure shall not be moved onto the project site prior to the issuance of a building permit and shall be removed within 30 days after issuance of the certificate of occupancy for the building or completed development.

b. The temporary structure may be placed on a property adjacent to the construction site if site constraints make it infeasible to locate the structure on the construction site, provided the adjacent site is restored to its previous condition within 60 days after issuance of the certificate of occupancy for the building or completed development.

c. Adequate off-street parking for the temporary structure shall be provided.

d. Temporary fencing on a construction site may remain in place as long as a building permit for the intial construction remains active and has not expired.

e. A temporary structure, such as a trailer or modular unit, may be used as a real estate sales office in a new development for the sale and promotion of properties within that project and its future phases. A real estate office shall not contain sleeping or cooking accommodation unless located in a model sales home/unit (see Section 4.4.D(6), Model sales home/unit).

f. A construction trailer may be used as a contractor's office or for storage of construction equipment and materials.

g. During the active construction period of a construction project involving a non-residential use or a residential development with building permit(s) for more than 50 units at any one time, one mobile home or trailer may be allowed on the same property to be used as a temporary residence by a security guard.

h. The Planning Director shall issue the temporary use permit for an appropriate period of time not to exceed one year and may extend the temporary use permit for an additional period not to exceed

one year on finding that the building construction or land development is proceeding in a reasonably timely manner.

(2) DONATION BIN (OUTDOOR)

A donation bin located outdoors shall comply with the following standards:

a. A maximum of two bins shall be permitted on the premises.

b. The bin shall not be located within a required parking space, a drive aisle, or a required landscaping area.

c. The bin shall not exceed 8 feet in height nor have a footprint greater than 100 square feet.

d. The bin shall be opaque and have a chute or a lid that is secured closed so as to screen the contents of the bin from view.

e. All donated items shall be stored within the bin.

(3) FARMERS' MARKET, TEMPORARY

Temporary farmers' markets shall comply with the following standards:

a. The market shall be located on an open area or parking lot, except it may operate inside a public or privately owned building during the months of November through April for up to 30 days.

b. The market shall provide adequate ingress, egress, and off-street parking areas. Vehicular access to the market shall be provided from a street having a functional classifiction of collector or higher.

c. The market shall be open only during daylight hours, except when it is operated inside a building in accordance with subsection a above.

d. Sales shall be limited to the retail sale of agriculture, aquaculture, and horticulture products primarily produced by the vendor, including the sale of products made by the vendor from such products (e.g., baked goods, jams and jellies, juices, cheeses), and incidental sales of crafts or similar home-made products made by the vendor. Up to 25 percent of gross sales of each vendor may be from products not produced or made by the vendor

e. Items for sale shall not be displayed or stored within customer pathways.

f. The market shall have an established set of operating rules addressing the governance structure of the market, hours of operation, and maintenance and security requirements and responsibilities.

g. The market shall have a manager authorized to direct the operations of all participating vendors during all hours of operation.

(4) FLEA MARKET, TEMPORARY

Temporary flea markets shall comply with the following standards:

a. The market shall be located on an open area or parking lot of property owned by a public agency or a not-for-profit organization.

b. The market shall operate for no more than 30 days in any one calendar year.

c. The market shall be open only during daylight hours.

d. Stalls, sales tables, and any other facilities related to the market shall be located at least 25 feet from any adjoining street. If located within a parking lot, the facilities shall be located so as to provide sufficient parking facilities for the patrons.

e. Market sales shall be limited to merchandise, collectibles, crafts, antiques, and other items, excluding automobiles, automobile parts, and non-portable household appliances.

f. Items for sale shall not be displayed or stored within customer pathways.

g. The market shall have an established set of operating rules addressing the governance structure of the market, hours of operation, and maintenance and security requirements and responsibilities.

h. The market shall have a manager authorized to direct the operation of all participating vendors during all hours of operation.

(5) MOBILE FOOD VENDING

Mobile food vending shall comply with the following standards, except in conjunction with special events recognized by the City where mobile food vendors are permitted or non-profit fundraising events of five days or less:

a. Mobile food vending is prohibited on vacant properties.

b. A minimum separation of 400 feet from any other mobile food vending is required.

c. Mobile food vending units shall not be located within minimum required setbacks, sight distance triangles, or required buffers. All sidewalk encroachments shall require permit approval from the City.

d. Mobile food vending units shall not impede drive aisles, loading or service areas, or fire lanes.

e. A minimum of one off-street parking space shall be provded, except in the MU-AC, TOD, and CC districts.

f. The landowner shall ensure that trash receptacles are provided within ten feet of the location where food is ordered or consumed on site and that all trash, litter, and refuse are removed from the site at the end of each business day.

g. The hours of operation shall be limited to between 8:00 a.m. and 9:00 p.m. Overnight storage of mobile food vending units on site is prohibited.

h. The service shall not operate as a drive-through service.

(6) MODEL SALES HOME/UNIT

A single model sales home/unit may be located on a new development site and temporarily used for sales or leasing uses associated with a residential or mixed-use development with residential units, subject to the following standards:

a. A model sales home/unit shall be located on a lot or building site approved as part of the development or within a building approved as part of the development.

b. There shall be no more than one model sales home/unit per builder in the development.

c. The model sales home/unit shall comply with all dimensional standards and other development requirements.

d. The building shall be aesthetically compatible with the character of the surrounding area in terms of exterior color, predominant exterior materials, and landscaping.

e. A model sales home/unit may be used for temporary sales/leasing until the last lot or residential unit is developed.

f. On termination of the temporary real estate sales/leasing use of a model sales home/unit, the home/unit shall be converted into, or removed and replaced with, a permanent permitted use, and any excess parking shall be removed and landscaped in accordance with the development permits and approvals for the development.

g. The storage of building materials is prohibited.

h. A maximum of five employees may use the model sales home/unit as an office.

i. A temporary use permit for the use shall be issued only when actual construction on or in the immediate vicinity of the development site necessitates the model sales home/unit. The permit shall be initially valid for no more than three years. The Planning Director may grant written extensions of this time period for completion of the development; however, the permit shall remain valid no longer than the time required for the construction of the development.

(7) OUTDOOR SALES

Outdoor sales shall comply with the following standards:

a. Sales activities shalll be incidental to the primary use.

b. The use shall not involve the erection of permanent structures in the front yard but may involve movable tables, chairs, fences, walls, cordons, and accouterments, provided they are removed from the front yard whenever the establishment is not open for business. The front yard shall remain open and unenclosed.

c. Sales and display areas shall not extend beyond the sidewalk or concrete apron entrance of the building, nor encroach into any public right-of-way.

d. Sales and display areas shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use. A clear pathway at least five feet wide shall be maintained to allow through public pedestrian traffic along the sidewalk and from the sidewalk into the entrance to the establishment. A greater width may be required where necessary to ensure the safe and convenient flow of pedestrian traffic.

e. Sales activities on vacant property or from vehicles is prohibited.

(8) SEASONAL SALES

Seasonal sales shall comply with the following regulations:

a. Sales and display areas shall be located at least 25 feet from existing street lines and adjacent lot lines.

b. Adequate measures shall be taken to ensure that the use will not adversely affect the health and safety of residents or workers in the area, and will not be detrimental to the use or development of adjacent properties or the general neighborhood.

c. Off-street parking shall be adequate to accommodate the proposed sale of products.

d. Fireworks stands shall be limited to of one portable structure, not to exceed 120 square feet in area.

e. Agricultural products (such as Christmas trees) shall be allowed and may cover a maximum of 400 square feet. A maximum display area of 100 square feet shall be allowed in residential districts. Sales in residential districts are limited to selling excess vegetables and fruits incidental to residential use. Residential seasonal sales shall be limited to the daylight hours.

f. All buildings and display booths shall be portable and shall be completely removed prior to the expiration of the temporary use permit.

(9) SPECIAL EVENT

a. APPLICABILITY

1. All special events (including but not limited to cultural events, religious events, musical events, celebrations, festivals, fairs, carnivals, circuses, and communal camping) shall comply with the standards in this subsection, unless exempted by section 2 below.

2. The following events and activities are exempt from the standards in this section and do not require approval of a temporary use permit for a special event; however, they are subject to all other applicable requirements of this Ordinance:

(a) Special events or activities occurring within, or on the grounds of, a single-family detached dwelling;

(b) Any event sponsored in whole or in part by the City;

(c) Any event conducted on public property, such as school sites and public parks, provided the event shall comply with any guidelines, regulations, and permitting process required by the authorizing agency (e.g., School District or a Parks and Recreation Department).

(d) Any organized activities conducted at sites or facilities typically intended and used for such activities. Examples of such exempt activities include, but are not limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; fairs and carnivals at fairgrounds; wedding services conducted at places of worship, reception halls, or similar facilities; and funeral services conducted at places of worship, funeral homes, or cemeteries.

b. STANDARDS

A special event shall:

1. Not create an unreasonable risk of significant:

(a) Damage to public or private property, beyond normal wear and tear;

(b) Injury to persons;

(c) Public or private disturbances or nuisances;

(d) Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;

(e) Additional and impracticable or unduly burdensome police, fire, trash removal, maintenance, or other public services demands; and

(f) Other adverse effects upon the public health, safety, or welfare.

2. Be of a nature, size, and duration that can be reasonably accommodated by the particular location requested.

3. Not occur at a time and location that has already been permitted or reserved for other activities.

c. CONDITIONS OF APPROVAL

In approving a temporary use permit for a special event, the Planning Director is authorized to require any one or more of the following as a condition of approval, in order to address the event's potential impacts:

1. The provision of temporary parking facilities, including appropriate means of vehicular ingress and egress;

2. Control of nuisance factors, including but not limited to, glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;

3. Limitations on the placement, height, and size of temporary buildings, structures, and facilities and on the location of equipment and open spaces, including buffer areas and other yards;

4. Facilities and/or plans for the provision of

(a) Medical care;

(b) Solid waste collection and disposal; and

(c) Security and safety;

5. The modification or elimination of certain proposed activities; and

6. Limitations on operating hours and days or on the duration of the special event to a shorter time period than requested.

(10) STORAGE IN PORTABLE SHIPPING CONTAINER

Temporary storage in a portable shipping container shall comply with the following standards:

a. Storage containers shall not exceed 160 square feet in floor area or be taller than eight feet.

b. Containers shall be located within a driveway, parking, or loading area. In cases where the driveway, parking, or loading area extends behind the front façade of a building, the container shall be placed behind the front façade.

c. In cases where improved driveways, parking, or loading areas are not present, containers shall be located so as to minimize their visibility from streets or adjacent residential areas, to the extent practicable.

d. Nothing in these standards shall limit the placement of more than one container on a lot or site, provided compliance with all other applicable standards is maintained.

e. Except for storage containers located on construction sites, storage containers shall not be located on an individual parcel or site for more than 30 consecutive days per site per occurrence. This time period may be extended for a maximum period of 30 days if a written request for an extension is submitted to the Planning Department prior to the expiration of the initial 30 days.

f. Storage containers may be placed on a residential site a maximum of two occurrences per year.

g. A minimum period of 180 days is required between the removal of a storage container from a nonresidential site and the subsequent placement of a storage container on the site.

(11) YARD SALE

A yard sale may be conducted by an individual occupant of a residence, a coordinated group of homeowners within an established development, or a civic or religious organization for the purpose of selling surplus household items. Yard sales shall comply with the following standards:

a. Yard sales shall not be held by the same homeowner, coordinated group of homeowners, or civic or religious organization more than three times in a calendar year.

b. A yard sale shall have a maximum duration of three consecutive days and shall be limited to the daylight hours.

c. Yard sales on commercially developed properties or vacant lots are prohibited.

d. Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling except while the sale is being held.

e. Goods purchased for resale shall not be offered for sale.

f. All signs shall comply with Section 5.9, Sign Standards.

(12) CAMPING SHALL COMPLY WITH THE FOLLOWING REGULATIONS:

a. Camping shall be secondary to a residential dwelling and for recreational purposes;

b. Camping shall be permitted only by the residents of the dwelling unit and their guests; and

c. Camping shall not be permitted in the front or side yards of a dwelling.

d. Camping shall have a maximum duration of ten (10) consecutive days and shall be limited to a maximum of thirty (30) days in a calendar year.

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ARTICLE 5. DEVELOPMENT STANDARDS

SECTION 5.1. MOBILITY, CIRCULATION, AND CONNECTIVITY STANDARDS

A. PURPOSE AND INTENT

The purpose of this section is to ensure that new development is served by a coordinated multimodal transportation system that permits the safe and efficient movement of pedestrians, bicyclists, motor vehicles, and emergency vehicles within the development and between the development and external transportation systems, neighboring development, and local destination points such as places of employment, schools, parks, and activity centers. Such a multimodal transportation system is intended to:

(1) Provide transportation options;

(2) Increase the effectiveness of local service delivery;

(3) Reduce emergency response times;

(4) Promote walking and bicycling;

(5) Facilitate use of public transportation;

(6) Contribute to the attractiveness of development and the community;

(7) Connect neighborhoods and increase opportunities for interaction between neighbors;

(8) Reduce vehicle miles of travel and travel times;

(9) Minimize congestion and traffic conflicts; and

(10) Preserve the safety and capacity of the City's transportation systems.

B. APPLICABILITY

(1) GENERAL

Except as otherwise provided in this section, the standards in this section apply to all new development.

(2) TIMING OF REVIEW

Review for compliance with the standards in this section shall occur during review of an application for a conditional zoning (see Section 2.5.A(3)), planned development (see Section 2.5.A(4)), site plan (see Section 2.5.B(1)), minor subdivision (see Section 2.5.B(2)), major subdivision (see Section 2.5.B(3)), or zoning clearance permit (see Section 2.5.C(1)), whichever occurs first.

(3) DEVELOPER RESPONSIBLE FOR ACCESS AND CIRCULATION IMPROVEMENTS

The developer shall provide road, street, bikeway, sidewalk, and other access and circulation improvements in accordance with the LDSM, and Section 5.1.C below, and shall dedicate any required rights-of-way or easements in accordance with Article 6: Subdivision Standards.

C. MOBILITY, CIRCULATION, AND CONNECTIVITY STANDARDS

(1) MULTIMODAL TRANSPORTATION SYSTEM

a. New development shall be served by a system of sidewalks, paths, greenways, roadways, accessways, and other facilities designed to provide for multiple travel modes (motor vehicle, transit, bicycle, and pedestrian), based on the development's size and character, zoning district classification, and relationship to development and development patterns in surrounding areas, and existing and planned community transportation systems.

b. Motor vehicle, transit, bicycle, and pedestrian access and circulation systems shall be coordinated and integrated to provide the development's occupants and visitors transportation options and to enhance safe and efficient mobility throughout the development and the community.

(2) SIDEWALKS AND OTHER PEDESTRIAN FACILITIES

a. Except as otherwise provided by subsection b below, sidewalks are required along the entire frontage of a development located on an existing street, and along both sides of all streets within the development. Sidewalks shall comply with all applicable standards in the LDSM and with any additional sidewalk standards that apply in the zoning district (see Article 3: Zoning Districts).

b. Sidewalks, and curbs and gutters, are not required if the street cross-section in the LDSM for the applicable street classification does not require a sidewalk, and curb and gutter. Additionally, the Planning Director, in consultation with the Director of Engineering and the City Engineer, may waive or modify the requirement for sidewalks, and curbs and gutters, in specific locations on determining the sidewalk, and curb and gutter:

1. Would be duplicative of an existing greenway or other pedestrian way;

2. Is included in a project for which state funding has been allocated or is already included within the City's Capital Improvement Program (CIP);

3. Is impractical or infeasible due to the presence of topographic conditions or natural features, such as steep grades that do not allow connections to be made; or

4. Would not be located within 500 feet of an existing sidewalk on the same side of the street, provided a public easement for the future installation of a sidewalk is granted where there is insufficient right-of-way to accommodate a sidewalk, and provided the proposed development is not a major subdivision.

c. Where a development has frontage on an existing street with insufficient right-of-way width to accommodate installation of a required sidewalk along the frontage, the developer shall dedicate additional right-of-way for the installation of the required sidewalk or install the sidewalk on the development site within a dedicated public easement running parallel and adjacent to the public street.

d. Sidewalks or other pedestrian ways shall be constructed within any commercial, mixed-use, or multifamilydevelopment consisting of multiple buildings to link buildings in the development with other destinations in the development, including parking areas, open space and other on-site amenities, and other common areas serving the devleopment (e.g., mailbox clusters), and with sidewalks and other pedestrian ways on adjoining lands.

e. In all districts except the AG, RE, and HI districts, if a cul-de-sac street is proposed, a minimum eight feet wide pedestrian access shall be provided from the cul-de-sac head or a location on the cul-de-sac street within 200 feet of the cul-de-sac head to an adjoining street or sidewalk or other pedestrian way, where practicable.

(3) BICYCLE FACILITIES

a. Except as otherwise provided by subsection b below, new development shall include bike lanes, bike paths, or other bicycle facilities to allow safe and efficient bicycle access and circulation within the development, in accordance with the LDSM.

b. Unless required elsewhere in this Ordinance or in an adopted plan, bicycle facilities are not required in the following locations:

1. In the AG and HI districts; and

2. Where access is provided by alleys, local streets, or alternative access.

(4) PUBLIC STREETS

a. Public streets shall be designed and constructed in accordance with the LDSM standards for the applicable street classification type, as determined by the Director of Engineering in accordance with the Street Classification Standards, the Comprehensive Transportation Plan, and all applicable locally adopted plans.

b. All streets within a proposed development shall conform in alignment to any publicly adopted transportation plan, including the Comprehensive Transportation Plan and all applicable locally adopted plans.

c. Where a proposed subdivision abuts an existing street maintained by the City or NCDOT, the applicant shall dedicate right-of-way necessary to accomplish future road improvements, in accordance with state law. Where the subdivision is designed to utilize the street for frontage and direct access, the subdivider shall make any required improvements to the street so it conforms to the LDSM standards for the applicable street classification type.

d. New developments shall provide curb, gutter, sidewalks, and tree grates or a planting area between the street and the sidewalk, from the development to adjacent public streets that provide access to the development, in accordance with the LDSM. All such planting areas and tree grates shall be planted with street trees spaced apart an average of 40 feet or less on center. Road widening, sidewalks, bike lanes, street trees, curb and guttering, utility relocations, and all other related improvements shall be the responsibility of the developer and/or owner. The Planning Director may waive or modify the requirement for sidewalks in specific locations in accordance with Section 5.1.C(2)b above.

(5) PRIVATE STREETS

a. Private streets are permitted only in the following developments, in accordance with the standards in this section:

1. PD districts; and

2. Within an integrated Commercial, Industrial, Civic/Institutional, mixed-use, or multifamily residential development.

b. Private streets shall be designed and constructed in accordance with the standards for public streets set forth in the LDSM and this Ordinance, and shall include established right-of-way for public utilities.

c. A legally responsible organization (i.e. homeowners association, special district, etc.) shall be established to maintain private streets. Documents to assure private responsibility of future maintenance and repair by a homeowners association or a special district must be approved as to form by the Planning Director and the City Attorney.

d. A private street maintenance agreement, satisfactory to the Planning Director and Director of Engineering, shall be recorded by the developer and/or property owner(s) with the Register of Deeds. The agreement shall:

1. Specify lot owners' responsibilities for maintenance of private streets and drainage systems, and provide for assessments to finance all maintenance activities;

2. State that if the street is not privately maintained for safe passage of public service and emergency vehicles, the City may provide such maintenance, with charges therefore becoming a lien on the properties served, dividing among them proportionate to their assessed tax valuation; and

3. For gated or controlled access subdivisions, specify the method by which continuous accessibility to subdivision lots for provision of public service and emergency vehicles will be provided.

e. All property transfer instruments for lots with access on a private street shall contain reference to the private street maintenance agreement (see subsection d above) and shall state that if the private street does not meet public standards for maintenance, it will not be considered foracceptance by the City or public maintenance unless improved by the legally responsible organization to those standards.

f. Gated access shall not be allowed.

(6) BLOCKS AND STREET CONNECTIVITY

a. BLOCK LENGTH AND PERIMETER

1. Except as provided in subsection 2 below, the maximum length of any block within a subdivision shall comply with Table 5.1.C(6)a: Block Length Requirements.

Table 5.1.C(6)a: Block Length Requirements

Zoning Districts	Maximum Average Block Length (ft.)	Maximum Block Length (ft.)	Maximum Block Perimeter (ft.)
R4, R6, R7, R8, R18, MU-N, MU-AC, CC, MU-UC, MU-SC, TOD, GC, PD, PD-TND	550	650	2,200
R1, R2, LI, PD-C	800	1,000	2,400
AG, HI	None	None	None

2. The City may approve a block length that does not comply with subsection 1 above in the following situations:

(a) If the Committee determines that one or more of the following conditions prevents a through connection and there are no other practical alternatives:

1. Physical obstacles such as prior platting of property from another landowner;
2. Construction of existing buildings or other barriers;
3. Slopes over 15 degrees;
4. Wetlands and water bodies;
5. Railroad or utility right-of-way;
6. Existing limited-access motor vehicle right-of-way;

(b) To accommodate parks or dedicated open space, civic uses, pedestrian-oriented campuses, conference centers, stadiums or arenas, or other similar pedestrian-oriented, civic, or large-scale assembly uses.

3. Where a block exceeds the maximum average block length, a mid-block minimum eight feet wide pedestrian connection through the block shall be provided.

b. STREET CONNECTIVITY

1. Minimum Connectivity Ratio

(a) Unless exempted by subsection (d) below, the street network for a subdivision shall achieve a connectivity ratio of not less than 1.6.

(b) For the purposes of this section, the phrase "connectivity ratio" is defined as the number of street links divided by the number of nodes or link ends, including cul-de-sac heads.

1. A "link" means and refers to that portion of a street or alley defined by a node at each end or at one end. Approved stubs to adjacent property shall be considered links.

2. A "node" refers to the terminus of a street or the intersection of two or more streets. For the purposes of this section, any curve or bend of a street that fails to meet the minimum curve radius as established in the LDSM and any location where street names change (as reviewed and approved by the Planning Director) shall be counted as an intersection. For purposes of this section, approved stubs to adjacent property shall not be considered a terminus of a street.

(c) A proposed subdivision shall be exempt from the minimum connectivity ratio standard in subsection (a) above, if the Planning Director determines the following:

1. There are no options for providing stub streets due to topographical conditions, natural features, or existing street configurations; and

2. Interconnectivity (use of a looped road) within the development cannot be achieved or is unreasonable based on the constraints of the property to be developed.

2. Minimum Vehicular Access Points to External Street System

Unless exempted in accordance with subsection 4, below, all subdivisions shall provide vehicular access to the street system outside the subdivision in accordance North Carolina Fire Code

(a) Nothing in this section shall limit the total number of streets providing access to the street system outside a subdivision, or exempt a subdivision from applicable vehicular access requirements in City, state, or federal law.

(b) Street stubs shall be credited as an access points when ingress or egress to a development is available only from a single road on which the subdivision has less than 250 feet of frontage.

(c) A subdivision may be approved with fewer access points than required by Table 5.1.C(6)b.2, if the applicant demonstrates any of the following:

1. The provision of additional vehicular access points is not possible due to existing lot configurations, the absence of connecting streets, or environmental or topographic constraints;

2. NCDOT will not authorize additional access points; or

3. Alternative access can be provided in a manner acceptable to the City that is supported by a transportation impact analysis.

3. Connection to Adjoining Platted Right-of-way

The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands where the adjoining lands are developed and have right-of-way platted for such connections.

4. Connection to Adjoining Undeveloped Lands

The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands where the adjoining lands are undeveloped and/or deemed appropriate for future development. Streets providing connection into such adjoining lands shall comply with the following:

(a) The arrangement of streets and blocks on the periphery of the development shall reasonably accommodate future development on the adjoining lands that complies with the standards in Section 5.1.C(6)a, Block Length and Perimeter;

(b) Dead end streets that are longer than 150 feet shall include a temporary turnaround;

(c) The platting of partial width rights-of-way is prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated or established by other means;

(d) The final plat shall identify all such streets (street stubs) and include a notation that all street stubs are intended for connection with future streets on adjoining lands; and

(e) Signage shall be provided at the street stub identifying the stub as a future connection in accordance with the requirements of the LDSM.

(7) CROSS-ACCESS BETWEEN ADJOINING MULTIFAMILY, NONRESIDENTIAL, AND MIXED-USE DEVELOPMENTS

a. PEDESTRIAN CROSS-ACCESS

1. Each internal pedestrian circulation system (see Section 5.1.C(1), Multimodal Transportation System) in new multifamily, mixed-use, or nonresidential development (excluding development in the Industrial use classification) shall be designed to allow for pedestrian walkway cross-access between the development's buildings and parking areas and those on adjoining lots containing multifamily, mixed-use, or nonresidential development and to vacant lands.

2. Easements allowing cross-access to and from properties served by a pedestrian cross-access, along with agreements defining maintenance responsibilities of landowners, shall be recorded by the landowner with the Register of Deeds.

3. The Planning Director, as appropriate, may waive or modify the requirement for pedestrian cross-access on determining that such cross–access is impractical or infeasible due to the presence of topographic conditions or built or natural features.

b. BICYCLE CROSS-ACCESS

1. Each internal bicycle circulation system (see Section 5.1.C(1), Multimodal Transportation System) in new development other than Industrial uses, shall be designed and constructed to provide bicycle cross-access between it and any internal bicycle circulation system on adjoining parcels containing a multifamily, mixed-use, or nonresidential development.

2. Easements allowing cross-access to and from properties served by a bicycle cross-access, along with agreements defining maintenance responsibilities of landowners, shall be recorded by the landowner with the Register of Deeds.

3. The Planning Director may waive or modify the requirement for bicycle cross-access on determining that such cross–access is impractical or undesirable for typical bicyclists' use due to the presence of topographic conditions, natural features, or safety factors. Undesirable conditions shall

be defined as those limiting mobility for bicycles as a form of transportation, such as steep grades, narrow connections bounded on both sides by walls or embankments, or limited visibility when straight-line connections are not achievable.

c. PARKING LOTS CROSS-ACCESS

1. Each internal vehicular circulation system (see Section 5.1.C(1), Multimodal Transportation System) in new [non-residential or mixed-use development, excluding development of Industrial uses, shall be designed and constructed to provide vehicular cross-access between any parking lots within the development and any parking lots on adjoining parcels containing nonresidential or mixed-use development, and to the boundary of adjoining vacant land. The cross-access shall consist of a driveway or drive aisle that is at least 22 feet wide or two one-way driveways or aisles that are each at least 12 feet wide.

2. Easements allowing cross-access to and from lands served by a vehicular cross-access, along with agreements defining maintenance responsibilities of landowners pertaining to the vehicular cross-access, shall be recorded by the landowner with the Register of Deeds.

3. The Planning Director may waive or modify the requirement for vehicular cross-access on determining that such cross–access is impractical or undesirable due to the presence of topographic conditions, natural features, or vehicular safety factors.

(8) DRIVEWAYS

a. A driveway permit is required prior to the construction of any new access point to a publicly maintained street. Driveway permits are issued by the City in accordance with the requirements and standards in the LDSM for connections to City-maintained streets, and by NCDOT for connections to NCDOT-maintained roads.

b. Driveway spacing shall comply with the requirements of the LDSM. The Planning Director may make adjustments to driveway spacing requirements in accordance with Section 2.5.D(3), Administrative Adjustment.

c. Except as otherwise provided in subsection d below, driveway width where the driveway intersects the public street right-of-way shall comply with the applicable standards in the LDSM. The Planning Director may approve a driveway width that exceeds the maximum width set forth in the LDSM only under the following conditions:

1. The Director of Engineering determines that a wider turning area is needed in order to avoid a traffic hazard;

2. The Director of Engineering and the Planning Director jointly determine an appropriate distance from the point of intersection with the public street right-of-way where the driveway shall conform to the width standards in the LDSM; and

3. The design of the driveway is such that it progressively decreases in width to conform to the width standards in the LDSM.

d. Access to lots in a proposed subdivision that front on a thoroughfare shall be from another street internal to the subdivision, or by shared driveways spaced at least 400 feet apart. A notation shall be made on the final plat of the lots restricting vehicular access to the internal street or shared driveway, as applicable.

(9) VEHICLE STACKING SPACES AND LANES

a. Off-street vehicle stacking spaces shall be provided as required in Table 5.1.C(9)a: Vehicle Stacking Spaces Required.

Table 5.1.C(9)a: Vehicle Stacking Spaces Required

Activity Type	Minimum Number of Spaces	Spaces Measured From
Automated Teller Machine	3	Teller Machine
Bank Teller Lane	3	Teller or Window
Restaurant Drive-Thru	3	Order Box
Restaurant Drive-Thru	3	Order Box to Pick-up Window
Quick Lube	3	Entrance
Daycare Facility	3	Drop-off Entrance
Schools	8	Drop-off Entrance
Hospital	6	Drop-off Entrance
Car Wash Stall (Self-service)	3	Entrance
Car Wash Stall (Automatic)	3	Entrance

b. Each offff-street vehicle stacking space shall be a minimum of 10 feet wide and 20 feet long.

c. Stacking spaces shall not impede on-site or off-site vehicular traffic movements, movements into or out of parking spaces, or intersections of street R.O.W. with parking lot access points.

d. Stacking spaces shall not impede on-site or off-site bicycle or pedestrian traffic movements.

e. Development having an internal network of roadways or drive aisles shall provide the minimum distance from the edge of NCDOT-maintained right-of-way before any crossing or left turn conflicts in accordance with NCDOT requirements.

f. Except as otherwise provided by subsection e above, all non-residential and mixed-use development, excluding development in the Industrial use classification, shall provide stacking lanes between the edge of the street right-of-way and entrances into off-street parking areas in accordance with the stacking lane distance set forth in Table 5.1.C(9)e.1: Minimum Stacking Lane Length for Vehicular Parking Area Entrance Driveway, based on the number of off-street parking spaces in the parking area (see Figure 5.1.C(9)e.2: Illustration of Vehicle Stacking Lane for Vehicular Parking Area Entrance Driveway).

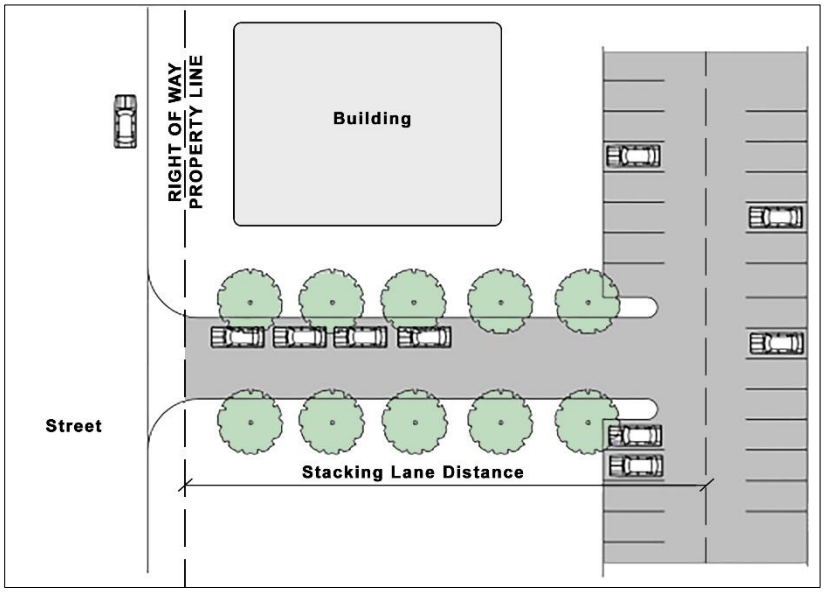
Table 5.1.C(9)e.1: Minimum Stacking Lane Distance for Vehicular Parking Area Entrance Driveway

Number of Off-street Parking Spaces in Parking Area	Minimum Distance of Stacking Lane (ft.)
1 - 49	40
50 - 249	60
250 - 499	100
500 or more	100 + 15 feet for every additional 50 spaces above 500

NOTES

[1] Stacking lane distance is measured from the intersection of the driveway with the street right-of-way, along the center line of the stacking lane, to its intersection with the centerline of the first entrance into a parking area or other intersecting driveway.

Figure 5.1.C(9)e.2: Illustration of Vehicle Stacking Lane for Vehicular Parking Area Entrance Driveway



(10) EMERGENCY VEHICLE ACCESS

a. Developments that do not have frontage on a public street shall provide access for fire vehicles and emergency apparatus from a public street as follows:

1. Except as provided by subsection 2 below, an access lane shall be provided from the street right-of-way to any portion of any structure that:

(a) Has a height of 30 feet or less and is located more than 150 feet from the nearest street right-of-way; or

(b) Has a height greater than 30 feet and is located more than 50 feet from the nearest street right-of-way.

2. The Fire Chief may waive the access lane requirement in subsection 1 above, if the Fire Chief, determines that adequate access for fire vehicles and emergency apparatus is provided to the affected portions of the structure from a street right-of-way through either buffer yard area or adjoining property.

b. The City shall not be liable for damage to underground utilities beneath fire access lanes caused by firefighting equipment.

SECTION 5.2. OFF-STREET PARKING, BICYCLE PARKING, AND LOADING STANDARDS

A. PURPOSE AND INTENT

The purpose of this section is to ensure that off-street vehicular parking, bicycle parking, and loading facilities are provided in proportion to the parking and loading demands of the different zoning districts and different uses allowed by this Ordinance. The standards in this section are intended to provide for adequate off-street vehicular parking, bicycle parking, and loading while supporting walkable urbanism in appropriate locations, and allowing flexibility to accommodate alternative parking solutions. The standards are also intended to achieve City policies of supporting redevelopment of commercial corridors, accommodating appropriate infill development, and avoiding excessive paved surface areas.

B. APPLICABILITY

(1) GENERAL

a. NEW DEVELOPMENT

All new development shall provide off-street vehicular parking, bicycle parking, and loading areas in accordance with the standards of this section.

b. ADDITION OR EXPANSION

1. Except as otherwise provided in subsection 2 below, if an existing structure or use is expanded or enlarged in terms of the number of dwelling units, floor area, number of employees, or seating capacity, whichever the minimum parking standard for the of the structure is based on, any additional off-street vehicular parking bicycle parking, and loading spaces that may be required shall be provided in accordance with the requirements of this section for the expanded or enlarged part of the structure or use.

2. Where the existing parking on the site of a proposed expansion or enlargement of an existing structure is nonconforming with regard to the standards in this section (see Article 7, Nonconformities), the parking shall be brought into compliance with the standards in this section in accordance with Table 5.2.B(1)b: Scaled Compliance of Nonconforming Parking.

Table 5.2.B(1)b: Scaled Compliance of Nonconforming Parking

INCREASE IN GROSS FLOOR AREA PROPOSED [1]	ADDITIONAL COMPLIANCE REQUIRED
Less than 25 percent	None
Between 25 percent and 65 percent	A corresponding percentage of the required minimum parking is required as additional compliance, up to achievement of 100 percent compliance [2]
More than 65 percent	Additional parking to achieve 100 percent compliance

NOTES:

[1] Based on the total of all increases in gross floor area in any five-year period.

[2] To illustrate this requirement, consider a hypothetical situation where a minimum of 40 parking spaces is required for the proposed use, but only 20 spaces are currently provided. If the building is expanded by 30 percent of its gross floor area, the expansion project must add 12 parking spaces (30 percent x 40 required spaces), increasing compliance from 50 percent (20 of 40 required spaces) to 80 percent (32 of 40 required spaces).

c. CHANGE OF USE

Any change of use of an existing structure or land shall be accompanied by provision of any additional off-street vehicular parking, bicycle parking, and loading spaces required for the new use by this section, subject to Article 7, Nonconformities.

(2) TIMING OF REVIEW

Review for compliance with the standards in this section shall occur during review of site plan (Section 2.5.B(1)) and zoning clearance permit (Section 2.5.C(1)) applications.

C. PARKING PLAN REQUIRED

Applications for development subject to this section (see subsection B above) shall include a parking plan, which shall accurately designate the number and location of required parking spaces, access aisles, and driveways, and the relation of the vehicular off-street parking facilities and bicycle parking facilities (if

applicable) to the development they are designed to serve, including how the parking facilities coordinate with the vehicular, pedestrian, and bicycle circulation systems for the development. The Planning Director may waive this requirement if the Planning Director determines that a parking plan is not necessary to demonstrate the proposed development's compliance with the standards in this section (Section 5.2) based on the size and configuration of proposed and existing parking and loading areas on the site.

D. GENERAL STANDARDS FOR OFF-STREET VEHICULAR PARKING AND LOADING AREAS

(1) STANDARDS FOR SINGLE-FAMILY, DUPLEX, AND TRIPLEX DWELLINGS

Parking spaces required by Table 5.2.E(1)a for single-family detached, duplex, and triplex dwellings are not subject to the requirements in Section 5.2.D(2).

a. LOCATION

1. Off-street parking shall be provided on the same parcel as the principal structure or use.

2. The number of parking spaces required shall be in accordance with standards in Table 5.2.E(1)a.

3. Parking in front yards is permitted in all districts, subject to the following requirements. The AG district is exempt from these requirements:

(a) Vehicles must be parked completely within driveways or parking spaces that comply with the standards in this section;

(b) Dimensional standards for driveway and parking standards are located in the LDSM;

(c) Driveways and parking spaces shall be designed and installed to avoid creating standing water conditions, diverting runoff onto neighboring properties, or adversely impacting stormwater water quality;

(d) Parking for duplexes shall be landscaped in accordance with Section 5.3.

b. SIZE

1. Off-street parking spaces shall have a minimum width of nine feet and a minimum depth of 18 feet.

2. Driveways providing access from the front of the lot shall have a minimum length of 25 feet.

c. SURFACING

Parking spaces and driveways shall be surfaced with asphalt, concrete, brick, stone, or other material approved by the Planning Director as having similar load bearing and wear characteristics, consistent with the requirements of the LDSM. Gravel or crushed stone may be used if the gravel is a minimum of six inches deep and the parking spaces and driveway have a visible and definable edge made of landscape timbers, vegetation such as low shrubs or decorative grasses, or similar techniques to distinguish the parking spaces and driveway from the front or corner side yard area, in compliance with requirements in the LDSM.

d. DRIVEWAYS

Driveways shall comply with the requirements in the LDSM.

(2) STANDARDS FOR ALL OTHER DEVELOPMENT

a. LOCATION AND ARRANGEMENT

1. Off-street parking shall be provided on the same parcel as the principal structure or use, unless an alternative arrangement is approved in accordance with Section 5.2.E(2), Off-street Parking Alternatives.

2. Parking spaces are prohibited in required street yards and buffer yards (see Section 5.3, Landscaping and Buffer Standards).

3. In the CC, MU-UC, and MU-AC districts, all off-street parking areas shall be located outside of the front yard, on the side(s) or rear of the building.

4. Each off-street parking space shall open directly onto an aisle or paved driveway and not onto a public street. Each parking space shall have vehicular access to a public street through a parking area meeting the requirements of this section or through one or more driveways, provided any necessary access easements are obtained. Parking spaces and driveways shall be arranged so that ingress and egress to a public street is by forward motion of the vehicle only.

5. Parking areas shall be designed to provide emergency vehicle access in accordance with applicable City and state regulations.

6. Sight Triangles for intersections of driveways and public streets shall be regulated in accordance with the LDSM.

b. SURFACING

1. Except as provided for in subsections 2 through 4 below, all required parking and vehicular traffic surfaces shall be surfaced with concrete or bituminous asphalt pavement.

2. The Planning Director may approve surfacing with alternative materials if the Planning Director determines the alternative materials exhibit equivalent load bearing and wear characteristics as concrete or bituminous asphalt.

3. The following areas may use turf or an alternative pervious material approved by the Planning Director:

(a) Areas where off-street parking in excess of the minimum required by this Ordinance is provided, if it is designed to be used ten or fewer times per year;

(b) Temporary parking areas serving special events; and

(c) Storage areas generating less than 30 ADT (average daily trips).

4. The Planning Director may approve a gravel or crushed stone surface for parking areas and access ways serving assembly uses (churches, sports facilities, fairgrounds, etc.) if the Planning Director determines the applicant demonstrates that these spaces will not be used regularly on a daily basis (will be used less than five times per week). Such parking areas and access ways shall comply with the following requirements:

(a) The gravel or crushed stone must be at least six inches deep throughout the parking areas and access ways, except as permitted in Watershed Protection Overlay Districts (see Section 3.8.I, Watershed Protection Overlay (WPO) District);

(b) Applicable accessibility and fire protection standards in the North Carolina State Building Code; and

(c) Be constructed with proper drainage.

c. MARKINGS

Each required off-street parking area and space, and each off-street loading area and berth, shall be identified by surface markings that are arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Such markings—including striping, directional arrows, lettering on signs and in handicapped-designated areas, and labeling of the pavement—shall be maintained so as to be readily visible at all times.

d. OVERHANG PROTECTION

Except where a wall is constructed, a minimum six-inch-high vertical concrete curb, bumper guard, or other comparable material shall be installed so that a parked vehicle will not extend beyond the marked boundaries of a parking space.

e. DIMENSIONAL STANDARDS FOR PARKING AREAS

1. Parking areas shall comply with the dimensional standards set forth in the LDSM for stalls, aisles, parking bays, planting islands, and bumper overhang.

2. A maximum of 20 percent of the spaces required by Section 5.2.E(1)a, Minimum Parking Standards, may be designated compact vehicle parking spaces. Such space shall comply with the standards for compact vehicle parking spaces that are set forth in the LDSM and shall be clearly marked or posted for use by compact cars only. The number of compact spaces may be increased by the Planning Director to up to 50 percent based on a compelling presentation of evidence demonstrating that additional spaces will accommodate the parking requirements for proposed use.

f. ACCESSIBLE PARKING FOR PERSONS WITH PHYSICAL DISABILITIES

Parking spaces for persons with physical disabilities shall comply with federal law, the accessibility requirements in the North Carolina State Building Code, and the requirements for such spaces set forth in the LDSM.

g. ELECTRIC VEHICLE (EV) CHARGING STATIONS

1. Electric vehicle (EV) charging spaces shall be provided in accordance with Section 5.2.E(1)c, Required Electric Vehicle (EV) Charging Stations. In addition, up to twenty percent of the off-street parking spaces required by Section 5.2.E(1)a, Minimum Parking Standards, may be used and designated as electric vehicle (EV) charging stations. The Planning Director shall have authority to approve the use and designation of additional required parking spaces as electric vehicle charging stations, provided that such additional spaces shall count as only one-half of a parking space when computing the minimum number of parking spaces required.

2. Parking spaces used as electric vehicle charging stations and provided in addition to required EV charging stations in accordance with subsection 1 above, shall:

(a) Be consolidated into group(s) of contiguous spaces located where they can be readily identified by electric vehicle drivers (e.g., through signage); and

(b) Not be operated for commercial purposes, other than as an accessory use to a principal commercial use.

h. LARGE PARKING LOTS

Parking areas containing 200 or more spaces, whether developed at one time or in phases, shall comply with the following standards:

1. Primary Drive Aisle

Primary drive aisles shall be provided within parking areas in accordance with the following standards:

(a) Be designed to appear as an extension of the public street network extending from the public right-of-way along the full length of the primary façades of structures being served by the drive aisle (see Figure 5.2.D(2)h.1: Location of Primary Drive Aisle);

(b) Have a minimum cross-section width between curbs to serve two travel lanes and accommodate parallel parking spaces along both sides of the drive aisle in areas not needed for turning movements;

(c) Be striped to designate parallel parking spaces, where appropriate;

(d) Include a sidewalk or curb-delineated pedestrian path along the front façade of a building when the drive aisle is aligned parallel to that building façade; and

(e) Provide street trees along both sides of the primary drive aisle with a maximum spacing of 40 feet on-center.

Figure 5.2.D(2)h.1: Location of Primary Drive Aisle

2. Pedestrian Pathways

Improved pedestrian pathways shall be provided within the parking area in accordance with the following standards:

1. One minimum five foot wide pathway providing access from the parking area to an entrance to the use served by the parking is required at a minimum, every six parallel parking rows (every three double-row parking bays) or every 200 feet, whichever is the lesser dimension;

2. A landscaping strip shall be provided along one or both sides of each pathway and shall be planted with shade trees spaced at a maximum average distance of 40 feet on center, measured linearly along the pathway from perpendicular lines extending to the center of the tree;

3. For parking areas serving uses in the Retail Sales and Services use classification, pathways shall be at the same grade as the abutting parking surface, or shall provide access points for persons pushing shopping carts spaced a minimum of one every 75 feet along each side of the pathway;

4. Pathways shall be aligned with and perpendicular to the primary entrance into the building served by the parking lot, to the maximum extent practicable; and

5. Pathways shall be paved with asphalt, cement, brick, or other comparable material, and shall be distinguished by contrasting color or materials when crossing drive aisles.

i. USE OF OFF-STREET PARKING AND LOADING AREAS

Off-street vehicular parking areas required by this section shall be used solely for the parking of licensed motorized vehicles in operating condition. Required parking spaces and loading berths may not be used for the display of goods for sale (except that farmers' markets and food trucks permitted under this Ordinance may be permitted to operate within parking areas), or the sale, lease, storage, dismantling, or service of any vehicles, boats, motor homes, campers, mobile homes, building materials, equipment, or supplies.

j. MAINTAINED IN GOOD REPAIR

Off-street parking and loading areas, including access drives, shall be maintained at all times in a safe condition and good repair (free from potholes, structural failures, etc.), as determined by the Director of Engineering, and parking space lines or markings shall be maintained in accordance with subsection c above.

k. STORMWATER MANAGEMENT

Stormwater management in parking areas shall comply with Section 5.10, Stormwater Management Standards.

l. EXTERIOR LIGHTING

Exterior lighting in parking areas shall comply with Section 5.6, Exterior Lighting Standards.

m. LANDSCAPING AND BUFFERING

Landscaping and buffering in parking areas shall comply with Section 5.3, Landscaping and Buffer Standards.

E. OFF-STREET VEHICULAR PARKING SPACE STANDARDS

(1) MINIMUM AND MAXIMUM OFF-STREET VEHICULAR PARKING SPACES

a. MINIMUM PARKING STANDARDS

New development shall provide the minimum number of off-street vehicular parking spaces required by Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces, based on the proposed use(s), subject to subsection c below, and Section 5.2.E(2), Off-street Parking Alternatives.

Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces

Principal Use Category/Type	Minimum Number of Parking Spaces [1]	
	TOD, CC, MU-UC, and MU-AC Districts	All Other Areas in the City
Agricultural/Rural Uses		
Agriculture	n/a	No minimum
Community garden	No minimum	No minimum
Equestrian center	n/a	No minimum
Feed lot	n/a	No minimum
Forestry	n/a	No minimum
Livestock auction sales	n/a	No minimum

Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces

Principal Use Category/Type	Minimum Number of Parking Spaces [1]	
	TOD, CC, MU-UC, and MU-AC Districts	All Other Areas in the City
Rural retreat	n/a	1.0 per 4 guest rooms
Swine farm	n/a	No minimum
Residential Uses		
Household Living		
Duplex	1.5 per du	2.0 per du
Live-work unit	2.0 per du	2.0 per du
Manufactured home	n/a	2.0 per du
Multifamily dwelling	1.0 per du (studio – 2 BR) 1.5 per du (3+ BR)	1.5 per du (studio – 2 BR) 2.0 per du (3+ BR)
Single-family detached dwelling	n/a	2.0 per du
Townhouse	n/a	1.5 per du (1 – 2 BR) 2.0 per du (3+ BR)
Triplex	1.5 per du	1.5 per du
Group Living		
Boarding house	0.75 per bedroom	1.0 per bedroom
Cooperative house	0.75 per bedroom	1.0 per bedroom
Dormitory	0.4 per bedroom	0.5 per bedroom
Family care home	1.0 per 5 beds	1.0 per 3 beds
Residential care facility	1.0 per 5 beds	1.0 per 3 beds
Civic/Institutional Uses		
Communication		
Broadcasting studio	1.0 per 400 sf	1.0 per 200 sf
Wireless telecommunications support structure	No minimum	No minimum
Collocation of antenna on existing support structure	No minimum	No minimum
Community Service		
Animal shelter	n/a	2.0 per 1,000 sf
Childcare center	1.0 per 500 sf	2.5 per 1,000 sf
Civic, social, or fraternal organization	1.0 per 350 sf	1.0 per 250 sf
Community recreation center	2.5 per 1,000 sf	3.5 per 1,000 sf
Correctional institution	Alternative Parking Plan required	Alternative Parking Plan required
Cultural facility	1.5 per 1,000 sf	2.5 per 1,000 sf
Government offices	2.25 per 1,000 sf	3.0 per 1,000 sf
Post office	n/a	3.3 per 1,000 sf
Public assembly, Indoor	1.0 per 10 seats	1.0 per 8 seats

Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces

Principal Use Category/Type	Minimum Number of Parking Spaces [1]	
	TOD, CC, MU-UC, and MU-AC Districts	All Other Areas in the City
Education		
College or university	n/a	Alternative Parking Plan required
School, Technical or trade	2.0 per 1,000 sf	2.5 per 1,000 sf
School, Private or Charter	Up to 10th grade: 1.0 per 10 students design capacity 10th – 12th grade: 1.0 per 4 students design capacity	Up to 10th grade: 1.0 per 8 students design capacity 10th – 12th grade: 1.0 per 2 students design capacity
School, Public	Up to 10th grade: 1.0 per 10 students design capacity 10th – 12th grade: 1.0 per 4 students design capacity	Up to 10th grade: 1.0 per 8 students design capacity 10th – 12th grade: 1.0 per 2 students design capacity
Funeral and Mortuary Services		
Crematory	n/a	No minimum
Funeral home or mortuary	1.0 per 200 sf assembly area	1.0 per 150 sf assembly area
Health Care		
Hospital	2.0 per 1,000 sf	2.5 per 1,000 sf
Medical or dental laboratory	1.5 per 1,000 sf	2.0 per 1,000 sf
Medical or dental office/clinic	2.5 per 1,000 sf	3.3 per 1,000 sf
Nursing home	1.0 per 5 beds	1.0 per 4 beds
Parks and Open Space		
Arboretum or botanical garden	No minimum	No minimum
Cemetery	No minimum	No minimum
Dog park	No minimum	No minimum
Park or greenway	No minimum	No minimum
Zoo	n/a	Alternative Parking Plan required
Transportation		
Air transportation and support facility	n/a	Alternative Parking Plan required
Commercial parking (as principal use)	No minimum	No minimum
Passenger terminal, Surface transportation	Alternative Parking Plan required	Alternative Parking Plan required
Rail transportation support facility	n/a	Alternative Parking Plan required
Utilities		
Solar energy collection facility, Large scale	n/a	2.0 per 1,000 sf office facilities
Utility facility, Major	n/a	2.0 per 1,000 sf office facilities
Utility facility, Minor	No minimum	2.0 per 1,000 sf office facilities

Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces

Principal Use Category/Type	Minimum Number of Parking Spaces [1]	
	TOD, CC, MU-UC, and MU-AC Districts	All Other Areas in the City
Commercial Uses		
Animal Care		
Kennel	n/a	2.0 per 1,000 sf
Pet care service	3.0 per 1,000 sf	4.0 per 1,000 sf
Veterinary hospital or clinic	2.25 per 1,000 sf	3.0 per 1,000 sf
Business Services		
Business service center	2.25 per 1,000 sf	3.0 per 1,000 sf
Catering establishment	2.25 per 1,000 sf	3.0 per 1,000 sf
Conference or training center	n/a	4.0 per 1,000 sf
Data center	n/a	2.0 per 1,000 sf office facilities
Office, Contractor	n/a	1.5 per 1,000 sf
Office, General business or professional	2.25 per 1,000 sf	3.0 per 1,000 sf
Eating or Drinking Establishments		
Bar	4.0 per 1,000 sf seating area	8.0 per 1,000 sf seating area
Microbrewery	4.0 per 1,000 sf seating area	8.0 per 1,000 sf seating area
Nightclub	4.0 per 1,000 sf seating area	8.0 per 1,000 sf seating area
Restaurant	4.0 per 1,000 sf seating area	8.0 per 1,000 sf seating area
Restaurant, Carryout	4.0 per 1,000 sf seating area	8.0 per 1,000 sf seating area
Personal Services		
Studio/School	1.5 per 1,000 sf	2.0 per 1,000 sf
Dry-cleaning service	1.2 per 1,000 sf	1.5 per 1,000 sf
Fortune telling establishment	n/a	2.0 per 1,000 sf
Laundry, Self-service	1.5 per 1,000 sf	2.0 per 1,000 sf
Personal or household goods repair	1.5 per 1,000 sf	2.0 per 1,000 sf
Personal grooming or well-being service	1.5 per 1,000 sf	2.0 per 1,000 sf
Tattoo or body-piercing establishment	1.5 per 1,000 sf	2.0 per 1,000 sf
Recreation/Entertainment		
Amusement park	n/a	Alternative Parking Plan required
Art gallery	2.0 per 1,000 sf	2.5 per 1,000 sf
Electronic Gaming Operation	n/a	5.0 per 1,00 sf
Golf course, Public or private	n/a	5.0 per hole
Hunting or fishing club	2.5 per 1,000 sf	3.3 per 1,000 sf
Outdoor banquet facility	n/a	1.0 per 3 guests at maximum capacity
Performing arts center	1.0 per 5 seats design capacity	1.0 per 4 seats design capacity
Recreation facility, Indoor	3.5 per 1,000 sf	5.0 per 1,000 sf

Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces

Principal Use Category/Type	Minimum Number of Parking Spaces [1]	
	TOD, CC, MU-UC, and MU-AC Districts	All Other Areas in the City
Recreation facility, Outdoor	n/a	1.0 per 5 seats or 1.0 per 5,000 sf outdoor area
Sexually-Oriented Business	n/a	3.3 per 1,000 sf
Shooting range, Indoor	n/a	3.3 per 1,000 sf
Stadium, arena, or amphitheater	2.5 per 1,000 sf	3.3 per 1,000 sf
Retail Sales and Services		
Bank or financial institution	2.5 per 1,000 sf	3.3 per 1,000 sf
Check cashing, auto title, or payday loan business	n/a	3.3 per 1,000 sf
Consumer goods establishment	2.5 per 1,000 sf	3.3 per 1,000 sf
Farmers' market (as a principal use)	0.75 per 1,000 sf vending area	1.0 per 1,000 sf vending area
Gas and heating oil sales	n/a	3.3 per 1,000 sf
Grocery store	2.5 per 1,000 sf	3.3 per 1,000 sf
Liquor Sales (ABC Store)	n/a	3.3 per 1,000 sf
Pawnshop	2.5 per 1,000 sf	3.3 per 1,000 sf
Prefabricated building sales	n/a	3.3 per 1,000 sf
Self-service storage	n/a	1.0 per 200 rental spaces (minimum 2)
Shopping center	2.5 per 1,000 sf	3.3 per 1,000 sf
Tobacco and vape products store	2.5 per 1,000 sf	3.3 per 1,000 sf
Vehicle Sales and Services		
Car wash	n/a	2.0 per 1,000 sf retail area plus 1.0 per wash bay
Commercial fuel depot	n/a	1.0 per employee
Commercial vehicle sales and rentals	n/a	2.0 per 1,000 sf
Commercial vehicle service and repair	n/a	3.0 per repair bay
Personal vehicle sales and rentals	n/a	3.3 per 1,000 sf
Personal vehicle service and repair	n/a	3.0 per repair bay
Towing service	n/a	2.5 per 1,000 sf office area
Vehicle fueling station	2.5 per 1,000 sf	3.3 per 1,000 sf
Visitor Accommodations		
Bed and breakfast establishment	2.0 plus 1 per guest room	2.0 plus 1 per guest room
Hotel or motel	1.0 per guest room plus 1.0 per 500 sf of auxiliary space	1.0 per guest room plus 1.0 per 500 sf of auxiliary space
Short-term rental (as a principal use)	1.0 plus 0.5 per bedroom	1.0 plus 1 per bedroom
Industrial Uses		
Extraction		

Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces

Principal Use Category/Type	Minimum Number of Parking Spaces [1]	
	TOD, CC, MU-UC, and MU-AC Districts	All Other Areas in the City
All extraction uses	n/a	1.0 per employee at peak shift and 1.0 per company vehicle at peak shift
Industrial Services		
Contractor's yard	n/a	3.0 per 1,000 sf
Fleet terminal	n/a	1.5 per 1,000 sf of office space
Industrial launderers	n/a	1.5 per 1,000 sf
Industrial services establishment, General	n/a	1.5 per 1,000 sf
Publishing facility	1.0 per 1,000 sf	1.5 per 1,000 sf
Manufacturing, Assembly, or Fabrication		
Artisan production	1.0 per 1,000 sf	1.5 per 1,000 sf
Manufacturing, assembly, or fabrication, Light	1.0 per 1,000 sf	1.5 per 1,000 sf
Manufacturing, assembly, or fabrication, Medium	n/a	1.5 per 1,000 sf
Manufacturing, assembly, or fabrication, Heavy	n/a	1.5 per 1,000 sf
Warehousing, Freight Movement, and Wholesale Sales		
Motor freight facility	n/a	2.5 per 1,000 sf (office/retail space)
Outdoor storage (as a principal use)	n/a	n/a
Warehouse distribution and storage	n/a	1.5 per 1,000 sf
Wholesale, Florist and nursery supply	n/a	1.5 per 1,000 sf
Wholesale, General	n/a	1.5 per 1,000 sf
Wholesale, Heavy or hazardous materials	n/a	1.5 per 1,000 sf
Waste-Related Uses		
Composting facility	n/a	1.5 per 1,000 sf office facilities
Hazardous waste collection and disposal	n/a	1.5 per 1,000 sf office facilities
Junk/Salvage yard	n/a	1.5 per 1,000 sf office facilities
Recycling collection center	n/a	2.0 per 1,000 sf
Recycling plant	n/a	1.5 per 1,000 sf
Sewage treatment facility, Private	n/a	1.5 per 1,000 sf office facilities
Solid waste collection and disposal	n/a	1.5 per 1,000 sf office facilities

NOTES:

[1] The term "n/a" means there is no minimum number of parking spaces required. The term "sf" is an abbreviation of "square feet of gross floor area", except where specifically provided otherwise. The term "du" is an abbreviation of "dwelling unit". The term "BR" is an abbreviation of "bedroom".

b. MAXIMUM PARKING STANDARDS

New development shall not provide more than the number of off-street parking spaces calculated by multiplying the number of off-street vehicular parking spaces required by Table 5.2.E(1)a: Minimum Number of Off-street Parking Spaces, based on the proposed uses, by the percentage in Table 5.2.E(1)b: Maximum Number of Off-Street Parking Spaces, based on the zoning district in which the proposed development is located, unless an alternative parking plan is approved for additional parking spaces in accordance with Section 5.2.E(2)a, Alternative Parking Plan.

Table 5.2.E(1)b: Maximum Number of Off-Street Parking Spaces

ZONING DISTRICT	MAXIMUM PARKING
TOD, CC, MU-UC, or MU-AC District	125%
HI District	No maximum
All other zoning districts	175%

c. REQUIRED ELECTRIC VEHICLE (EV) CHARGING STATIONS

1. An off-street parking area is required to provide electric vehicle charging stations in accordance with the standards of this subsection c if:

(a) The parking area is on lands classified in the GC district;

(b) Any part of the lot containing the parking area or the use it serves is within 1,000 feet of the point where an entrance ramp onto or exit ramp from Interstate 85 intersects with a street, measured in a straight line: and

(c) The parking area contains at least 50 parking spaces.

2. At least two parking spaces in the parking area shall be electric vehicle (EV) charging stations, and at least two percent of all parking spaces in the parking area in excess of 50 spaces (rounded to the nearest whole number) shall also be EV charging stations.

3. EV charging stations provided in accordance with this subsection shall comply with the standards in Section 5.2.D(2)g, Electric Vehicle (EV) Charging Stations.

d. RULES FOR CALCULATING MINIMUM AND MAXIMUM SPACES

1. Fractions

When calculation of the minimum number of required parking spaces or maximum allowed parking spaces results in a fractional number, a fraction of less than 0.5 shall be disregarded and a fraction of 0.5 or more shall be rounded to the next highest whole number.

2. Parking Structure Spaces Not Counted Toward Maximum

Parking spaces within an above-ground or an underground parking structure do not count toward the maximum number of parking spaces in Section 5.2.E(1)a, Minimum Parking Standards. For the purposes of parking calculations, the gross area of any parking garage within a building shall not be included within the gross floor area of the building.

3. Determining Number of Seats

When seating consists of benches, pews, or other similar types of seating, each 20 linear inches of seating space shall be counted as one seat. Where parking requirements relate to movable seating in auditoriums and other assembly rooms, each 15 square feet of net floor area shall be considered equal to one seat.

4. Development Having Multiple Uses

(a) Except as otherwise provided in subsection (b) below, where there are multiple uses within a structure or on a parcel, the minimum and maximum standards in Table 5.2.E(1)a, shall be applied to each use based on the extent of the use.

(b) The minimum number of off-street parking spaces for developments having more than one use category or type identified in Table 5.2.E(1)b: Time of Day Demand Factors, shall be calculated using the following methodology:

1. Determine the minimum number of off-street vehicular parking spaces required by Table 5.2.E(1)b for each component principal use in the development.

2. Multiply the number determined for each use under subsection 1 above, by the corresponding percentages set forth for each of the five time periods in Columns A through D of Table 5.2.E(1)b below. The resulting amounts represent the time-specific peak demand levels expected for each principal use.

3. For each time period (in Columns A through D of Table 5.2.E(1)b), sum the numbers calculated under subsection 2 above, for all proposed land uses (rounding down all fractions). These sums represent the total estimated shared demand for each time period throughout a typical day.

4. The highest total (for a time period) calculated under subsection 3 above, is the minimum number of off-street parking spaces required for the development.

Table 5.2.E(1)b: Time of Day Demand Factors

Use Category or Type	Weekday (Monday – Friday)		Weekend (Saturday – Sunday)	
	7:00 A.M. to 6:00 P.M.	6:00 P.M. to 2:00 A.M.	7:00 A.M. to 6:00 P.M.	6:00 P.M. to 2:00 A.M.
	A	B	C	D
Residential Uses	60%	100%	80%	100%
Business Service	100%	20%	10%	0%
Retail Sales and Services	100%	80%	100%	60%
Personal Services	100%	40%	60%	0%
Hotel	60%	100%	60%	100%
Restaurant or Carryout Restaurant	80%	100%	80%	100%
Recreation/ Entertainment	40%	100%	80%	100%
Industrial	100%	10%	10%	0%

5. As an example of how this shared parking requirement is computed, consider the following hypothetical mixed-use development proposal, located in the MU-SC District: 15,000 square feet of office; 15,000 square feet of conference/meeting space; 10,000 square feet of general retail; 100 two-bedroom multi-family dwelling units; and 120 hotel rooms.

a. The minimum parking requirements of each of these uses would be as follows:

Use	Minimum Parking Spaces Required
Office	45

Use	Minimum Parking Spaces Required
Conference/meeting space	60
General retail	33
Multi-family dwelling units	150
Hotel rooms	120
TOTAL	408

b. Applying the time of day demand factors to the minimum parking requirements, the shared parking methodology would yield the need for 317 parking spaces as shown in the table below, 91 fewer parking spaces than would be required if the shared parking methodology is not used for the mixed-use development.

Use Category or Type	Weekday (Monday – Friday)		Weekend (Saturday – Sunday)	
	7:00 a.m. to 6:00 p.m.	6:00 p.m. to 2:00 a.m.	7:00 a.m. to 6:00 p.m.	6:00 p.m. to 2:00 a.m.
	A	B	C	D
Office	45	9	4	0
Conference/meeting space	60	12	6	0
General Retail	33	26	33	19
Multi-family dwelling units	90	150	120	150
Hotel rooms	72	120	72	120
Sum of All Spaces	**300**	**317**	**235**	**289**

5. Uses with Variable Parking Demand Characteristics or not Identified in Table 5.2.E(1)a

(a) An applicant proposing to develop a use in Table 5.2.E(1)a, or a use not listed in Table 5.2.E(1)a shall propose required minimum and allowed maximum off-street vehicular parking for the use using one of the three methods set forth in subsection (b) below.

(b) On receiving an application for the development of a use that references this section in Table 5.2.E(1)a, or a use not listed in Table 5.2.E(1)a, the Planning Director shall review the applicant's proposed amount of off-street parking for the use and shall determine the required minimum and allowed maximum off-street vehicular parking for the use using one of the following methods:

1. Apply the standards for minimum required and maximum allowed off-street parking spaces specified in Section 5.2.E(1)a, for the listed use that is deemed most similar to the proposed use;

2. Establish the minimum required and maximum allowed off-street parking spaces by reference to resources published by the Institute for Transportation Engineers (ITE), or other professionally accepted sources, with the maximum allowed number of parking spaces not to exceed 125 percent of the minimum required number of parking spaces; or

3. Require that the applicant conduct a parking demand study to demonstrate the appropriate minimum requirement and maximum allowance for off-street parking spaces. The study shall estimate parking demand based on the recommendations of the ITE, or another acceptable source of parking demand data. This demand study shall include relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

(2) OFF-STREET PARKING ALTERNATIVES

a. ALTERNATIVE PARKING PLAN

1. The Planning Director is authorized to approve an alternative parking plan that proposes any of the following as an alternative to the provision of off-street vehicular parking spaces in accordance with Section 5.2.E(1)a, Minimum Parking Standards:

(a) Parking spaces that exceed the maximum number of allowed spaces, in accordance with subsection b below;

(b) One or more off-street parking alternative(s) set forth in subsections c through f below; and

(c) A reduction in parking demand on the site in accordance with Section 5.2.E(3)c, Other Eligible Alternatives.

2. An alternative parking plan shall be submitted only with a development application for a conditional zoning (see Section 2.5.A(3)), planned development (see Section 2.5.A(4)), site plan (see Section 2.5.B(1)), or zoning clearance permit (see Section 2.5.C(1)), whichever occurs first.

b. PROVISION OF PARKING SPACES OVER MAXIMUM ALLOWED

An alternative parking plan may propose to exceed the maximum number of off-street vehicular parking spaces allowed by Section 5.2.E(1)b, Maximum Parking Standards. The Planning Director shall approve such a plan only after submission of a parking demand study prepared by a professional transportation engineer which demonstrates how the maximum number of parking spaces allowed by Section 5.2.E(1)b is insufficient for the proposed development.

c. SHARED PARKING FOR SINGLE-USE DEVELOPMENT

An applicant for a development having only one principal use may meet a portion of the minimum number of off-street vehicular parking spaces required for that use by Section 5.2.E(1)a, Minimum Parking Standards, through sharing parking with other existing uses. Such use of shared parking may be approved through an alternative parking plan (see Section 5.2.E(2)a, Alternative Parking Plan) in accordance with subsections 1 through 7 below.

1. Adequate Spaces

Shared parking is allowed only where there are adequate parking spaces for current developments relying on the shared parking lot.

2. Maximum Shared Spaces

Up to 60 percent of the number of parking spaces required for the use may be shared with other uses, provided that the time periods having the highest parking demands do not overlap for the uses.

3. Location

(a) Shared parking spaces shall be located adjacent to the development or on the same block and within 800 feet of the primary pedestrian entrances to the uses served by the parking, measured along the pedestrian walkway from the shared parking area to the primary pedestrian entrance, not necessarily along a straight line (see subsection 4 below).

(b) Shared parking spaces shall not be separated from the use they serve by a street.

4. Pedestrian Access

Adequate and safe pedestrian access by a walkway protected by a landscape buffer or a curb separation and elevation from the street grade shall be provided between the shared parking areas and the primary pedestrian entrances to the uses served by the shared parking.

5. Signage Directing Public to Parking Spaces

Signage shall be provided to direct the public to the shared parking spaces.

6. Justification

The alternative parking plan shall include justification of the feasibility of shared parking among all uses proposed to share parking, using methods from ITE, ULI, or another acceptable source. Such justification shall address, at a minimum, the size and type of the uses proposed to share off-street vehicular parking spaces, the composition of their tenants, the types and hours of their operations, the anticipated peak parking and traffic demands they generate, and the anticipated rate of turnover in parking space use.

7. Shared Parking Agreement

An approved shared parking arrangement shall be enforced through written agreement among all the owners or long-term lessees of lands containing the uses proposed to share off-street vehicular parking spaces, in accordance with subsections (a) through (f) below.

(a) The agreement shall provide all parties the right to joint use of the shared parking area for a minimum of ten years, and shall ensure that as long as the off-site parking is needed to comply with this section, land containing either the off-site parking area or the served use will not be transferred, except in conjunction with the right to maintain the off-site parking spaces.

(b) The agreement shall state that no party can cancel the agreement without first sending notice by certified mail to the Planning Director, at least 90 days prior to the termination of the agreement.

(c) The agreement shall be submitted to the Planning Director for review and comment, and then to the City Attorney for review and approval before execution.

(d) An attested copy of an approved and executed agreement shall be recorded in the office of the Register of Deeds before issuance of a zoning clearance permit or Certificate of Compliance for any use to be served by the shared parking area.

(e) The agreement shall be considered a restriction running with the land and shall bind the heirs, successors, and assigns of the landowners. A violation of the agreement shall constitute a violation of this Ordinance, which may be enforced in accordance with Article 8: Enforcement.

(f) No use served by the shared parking agreement may be continued if the shared parking becomes unavailable to the use, unless substitute off-street vehicular parking spaces are provided in accordance with this section (Section 5.2.E, Off-street Vehicular Parking Space Standards).

d. OFF-SITE PARKING

An applicant may propose to meet a portion of the minimum number of off-street vehicular parking spaces required for a use by Section 5.2.E(1)a, Minimum Parking Standards, using off-site parking, i.e. off-street vehicular parking spaces located on a parcel or lot separate from the parcel or lot containing the use. Such use of off-site parking may be approved through an alternative parking plan (see Section 5.2.E(2)a, Alternative Parking Plan) in accordance with subsections 1 through 5 below.

1. Zoning District Classification

The zoning district classification of the land where the off-site vehicular parking is proposed shall be one that allows the use served by off-site parking (and thus off-street parking accessory to such use), or that allows the parking as a principal use.

2. Location

(a) Off-site parking spaces shall be located within 800 feet of the primary pedestrian entrances to the uses served by the parking:

1. For residential uses, including mixed-use dwellings: 400 feet; and

2. For all other uses: 600 feet.

(b) The distances specified in subsection (a) above, shall be measured along the pedestrian walkway from the off-site parking area to the primary pedestrian entrance, not necessarily along a straight line (see subsection 5 below).

3. Space Clearly Marked

Each parking space shall be clearly marked with signage that:

(a) Indicates that the space is reserved exclusively for the use being served, and that the user may cause violators to be towed;

(b) Does not exceed two square feet in sign area; and

(c) Does not include any commercial message.

4. Pedestrian Access

Adequate, safe, and well-lit pedestrian access shall be provided between the off-site vehicular parking area and the primary pedestrian entrances to the use served by the off-site parking.

5. Off-Site Parking Agreement

If land containing the off-site vehicular parking area is not under the same ownership as land containing the principal use served, the off-site parking arrangement shall be established in a written agreement between the owners of land containing the off-site vehicular parking area and land containing the served use. The agreement shall comply with the following requirements:

(a) The agreement shall provide the owner of the served use the right to use the off-site vehicular parking area for at least 15 years, and shall specify that the parking spaces are for the exclusive use of the served use, including any customers and employees;

(b) The agreement shall state that no party can cancel the agreement without first sending notice by certified mail to the Planning Director, at least 90 days prior to the termination of the agreement;

(c) The agreement shall be submitted to the Planning Director, for review and comment, and then to the City Attorney, for review and approval before execution;

(d) An attested copy of an approved and executed agreement shall be recorded in the office of the Register of Deeds before issuance of a zoning clearance permit or certificate of compliance for any use to be served by the off-site parking area;

(e) The agreement shall be considered a restriction running with the land and shall bind the heirs, successors, and assigns of the landowner(s);

(f) A violation of the agreement shall constitute a violation of this Ordinance, which may be enforced in accordance with Article 8: Enforcement; and

(g) No use served by the off-site vehicular parking may be continued if the off-site parking becomes unavailable, unless substitute off-street parking spaces are provided in accordance with this section (Section 5.2.E, Off-street Vehicular Parking Space Standards).

e. DEFERRED PARKING

An applicant may propose to defer construction of up to 25 percent of the number of off-street vehicular parking spaces required by Section 5.2.E(1)a, Minimum Parking Standards. Such a deferral may be approved through an alternative parking plan (see Section 5.2.E(2)a, Alternative Parking Plan) in accordance with subsections 1 through 5 below.

1. Justification

The alternative parking plan shall include a study demonstrating that because of the location, nature, or mix of uses, there is a reasonable probability the number of vehicular parking spaces actually needed to serve the development is less than the minimum required by Section 5.2.E(1), Minimum and Maximum Off-street Vehicular Parking Spaces.

2. Reserve Parking Plan

The alternative parking plan shall include a reserve parking plan identifying:

(a) The amount of off-street vehicular parking being deferred; and

(b) The location of the area to be reserved for future parking, if future parking is needed.

3. Parking Demand Study

(a) The alternative parking plan shall provide assurance that within two years after the initial certificate of compliance is issued for the proposed development, an off-street parking demand study evaluating the adequacy of the existing parking spaces in meeting the off-street vehicular parking demand generated by the development will be submitted to the Planning Director.

(b) If the Planning Director determines that the study demonstrates the existing vehicular parking is adequate, then construction of the remaining number of vehicular parking spaces shall not be required, and the land area may be used for other purposes. If the Director determines the study indicates additional parking is needed, such parking shall be provided consistent with the reserve parking plan and the standards of this section (Section 5.2.E, Off-street Vehicular Parking Space Standards).

4. Limitations on Reserve Areas

Areas reserved for future vehicular parking shall not be used for buildings, storage, loading, or other purposes. Such area may be used for temporary overflow parking, provided such use is sufficiently infrequent to ensure maintenance of its ground cover in a healthy condition.

5. Landscaping of Reserve Areas Required

Areas reserved for future off-street vehicular parking shall be landscaped with an appropriate ground cover, and if ultimately developed for off-street parking, shall be landscaped in accordance with Section 5.3, Landscaping and Buffer Standards.

f. VALET AND TANDEM PARKING

An applicant may proposed to use valet or tandem parking to meet a portion of the minimum number of off-street vehicular parking spaces required for commercial uses by Section 5.2.E(1)a, Minimum Parking Standards. Such use of valet or tandem parking may be approved through an alternative parking plan (see Section 5.2.E(2)a, Alternative Parking Plan) in accordance with subsections 1 through 3 below.

1. Number of Valet or Tandem Spaces

The maximum percentage of the total number of off-street vehicular parking spaces provided that may be designated for valet and tandem spaces are set forth in Table 5.2.E(2)f.1: Maximum Percentage of Total Spaces Used for Valet and Tandem Parking.

Table 5.2.E(2)f.1: Maximum Percentage of Total Spaces Used for Valet and Tandem Parking

Use	Maximum Percentage of Off-street Parking Spaces Designated for Valet and Tandem Spaces
Hotel or motel	70
Restaurant	60
All other uses in the Commercial use classification	35

2. Drop-Off and Pick-Up Areas

The development shall provide a designated drop-off and pick-up area. The drop-off and pick-up area shall be located adjacent to the building(s) served, but may not be located in a fire lane or where its use would impede vehicular or pedestrian circulation, cause queuing in a public street, or impede an internal drive aisle serving the development. The drop-off area shall not be located on the opposite side of the street where the use is located. The use of sidewalks for the stationing of vehicles is prohibited.

3. Valet or Tandem Parking Agreement

Valet or tandem parking may be established and managed only in accordance with a valet or tandem parking agreement that complies with the following requirements:

(a) The agreement shall be for a minimum of 10 years and shall include provisions ensuring that a valet parking attendant will be on duty during hours of operation of the uses served by the valet parking.

(b) The agreement shall be submitted to the Planning Director for review and comment, and then to the City Attorney for review and approval before execution.

(c) An attested copy of an approved and executed agreement shall be recorded in the office of the Register of Deeds before issuance of a zoning clearance permit or certificate of compliance for any use to be served by the valet or tandem parking.

(d) The agreement shall be considered a restriction running with the land and shall bind the heirs, successors, and assigns of the landowner(s). A violation of the agreement shall constitute a violation of this Ordinance, which may be enforced in accordance with Article 8: Enforcement.

(e) No use served by valet or tandem parking may be continued if the valet or tandem service becomes unavailable, unless substitute off-street vehicular parking spaces are provided in accordance with this section (Section 5.2.E, Off-street Vehicular Parking Space Standards).

(3) REDUCED PARKING STANDARDS FOR PARKING DEMAND REDUCTION STRATEGIES

Use of alternative transportation and transportation demand reduction strategies set forth in this section allows development to reduce the amount of vehicular parking provided below the requirements of Section 5.2.E(1)a, Minimum Parking Standards. All reductions shall be taken as cumulative and not exclusive.

a. TRANSPORTATION DEMAND MANAGEMENT

The Planning Director may, through approval of a Transportation Demand Management (TDM) plan, authorize up to a 30 percent reduction in the minimum number of off-street vehicular parking spaces required by Section 5.2.E(1)a, Minimum Parking Standards, for nonresidential or mixed-use developments having a floor area of at least 25,000 square feet, in accordance with the following standards.

1. TDM Plan

The TDM plan shall include facts, projections, an analysis (e.g., type of development, proximity to transit and/or other multi-modal systems, anticipated number of employees and/or patrons, minimum parking requirements) and indicate the types of transportation demand management activities that will be instituted to reduce single-occupant vehicle use and reduce traffic congestion. The plan shall identify the amount by which parking requirements have been reduced from the amounts otherwise required by this section.

2. Transportation Demand Management Activities

The TDM plan shall be required to provide the following transportation demand management activities:

(a) A Guaranteed Ride Home program that offers emergency ride services to each employee with an allowance of no fewer than four rides per year, which an applicant may establish to serve the development or in partnership with other developments or uses.

(b) Written disclosure of transportation information and educational materials to all employees, that makes transportation and ride-sharing information available to employees. (This may be met by Human Resources Officers or other administrators of an organization.)

(c) Formation of transportation demand reduction programs such as carpooling, vanpooling, ridesharing, subsidy of employee bus passes, teleworking, and shuttle service programs.

3. Two Transportation Demand Management Options Required

The TDM plan shall also require a minimum of two of the following transportation demand management strategies.

(a) Establishment of a development-specific website that provides multi-modal transportation information such as real-time travel/traffic information, bus schedules and maps, and logging of alternative commutes (e.g., bicycle, pedestrian, carpool, and vanpool). Specific information will vary depending on the specific services and transportation infrastructure available in the vicinity of the development, but in general will allow tenants or customers to compare travel modes available.

(b) In-lieu of the website described in subsection (a) above, installation of a real-time visual display screen or other display device of this type that provides multi-modal transportation information.

(c) A parking cash-out or transportation stipend, or provision of a cash incentive to employees not to use vehicular parking spaces otherwise available to tenants of a development.

(d) Unbundling of vehicular parking spaces from leases, or issuing tenant leases that do not include parking as an integral part of a floor-area space lease and require parking to be leased, purchased, or otherwise accessed through separate payment.

(e) Creation of a Preferential Parking Management Plan that specifically marks spaces for registered carpool and/or vanpool vehicles that are located near building entrances or in other preferential locations.

(f) Institution of off-peak work schedules that allow employees to arrive and depart at times other than the peak morning commute period (defined as 7:00 a.m. to 9:00 a.m.) and peak evening commute period (defined as 5:00 p.m. to 7:00 p.m.).

(g) Any other transportation demand management activity as may be approved by the Planning Director as a means of complying with the parking reduction provisions of this subsection.

4. Recording of TDM Plan

A copy of the approved TDM plan shall be recorded in the office of the Register of Deeds before issuance of a zoning clearance permit or certificate of compliance for the development to be

served by the plan. The TDM plan shall be recorded against the land, and the applicant and/or successors in interest in the land shall be responsible for implementing the plan in perpetuity.

5. TDM Program Coordinator

(a) The applicant shall appoint a TDM program coordinator to oversee transportation demand management activities.

(b) The TDM program coordinator shall be a licensed engineer, certified planner, or a traffic consultant that is also a qualified or trained TDM professional.

(c) The TDM program coordinator shall be appointed prior to issuance of a zoning clearance permit or certificate of compliance for the buildings to be served by the transportation demand management program.

6. TDM Report

The TDM program coordinator shall submit to the Planning Director a report on a biennial basis that details implementation of the approved TDM plan and the extent to which it has achieved the target reduction in drive-alone trips that justified the original reduction in parking. The report shall include, but is not limited to, the following:

(a) A description of transportation demand management activities undertaken;

(b) An analysis of vehicular parking demand reductions based on employee and/or resident use of ridership programs or alternative transportation options;

(c) Changes to the TDM plan to increase bus ridership, bicycle ridership, and other commuting alternatives, as defined in g below; and

(d) The results of an employee transportation survey.

7. Amendments

The Planning Director may approve amendments to an approved TDM plan in accordance with the procedures and standards for its original approval.

8. Parking Required if TDM Terminated

If the applicant or successors in interest in the development subject to a TDM plan stop implementing the plan or fail to submit a TDM report within one year of the regularly scheduled date the biennial report is due, the TDM plan shall be terminated and become null and void. Any such termination of the TDM plan does not negate the parties' obligations to comply with parking requirements of this section (Section 5.2.E, Off-street Vehicular Parking Space Standards) and this Ordinance, and thus shall constitute a violation of this Ordinance. No use served by the TDM plan may be continued unless another TDM plan is approved or all required off-street vehicular parking spaces are provided in accordance with this section (Section 5.2.E, Off-street Vehicular Parking Space Standards), within 120 days of termination of the TDM plan.

b. SPECIAL FACILITIES FOR BICYCLE COMMUTERS

The Planning Director may authorize up to a five percent reduction in the minimum number of off-street vehicular parking spaces required by Section 5.2.E(1)a, Minimum Parking Standards, for developments that comply with the bicycle parking standards in Section 5.2.F, Bicycle Parking Standards, and provide both of the following:

1. Additional enclosed (indoor or locker) and secure bicycle parking spaces equal to at least five percent of the number of vehicle parking spaces provided; and

2. Shower and dressing areas for employees.

c. OTHER ELIGIBLE ALTERNATIVES

The Planning Director may authorize up to a 10 percent reduction in the minimum number of off-street parking spaces required by Section 5.2.E(1)a, Minimum Parking Standards, if an applicant submits an alternative parking plan that demonstrates the applicant will effectively reduce parking demand on the site of the subject development, provided the applicant also demonstrates that the proposed plan of development will provide a comparable level of protection for surrounding neighborhoods, maintain traffic-circulation patterns, and promote quality urban design as would strict compliance with the otherwise applicable off-street vehicular parking standards.

F. BICYCLE PARKING STANDARDS

(1) MINIMUM REQUIRED BICYCLE PARKING

Parking spaces for bicycles, which includes electric-assist bicycles, are required in the MU-N, MU-AC, CC, MU-UC, and MU-SC districts in accordance with Table 5.2.F(1): Minimum Bicycle Parking Standards for MU-N, MU-AC, CC, MU-UC, and MU-SC Districts, for the following development, based on the development's principal use(s):

a. New development; and

b. Any individual expansion or alteration of a building existing prior July 1, 2022, if the expansion increases the building's gross floor area by 50 percent or more, or the alteration involves 50 percent or more of the building's gross floor area (including interior alterations).

Table 5.2.F(1): Minimum Bicycle Parking Standards for MU-N, MU-AC, CC, MU-UC, and MU-SC Districts

PRINCIPAL USE	REQUIRED MINIMUM NUMBER OF BICYCLE PARKING SPACES [1] [2]
AGRICULTURAL/RURAL USES	
All Agricultural/Rural uses	None
RESIDENTIAL USES	
Multifamily dwelling	1 for every 20 dwelling units
Dormitory	1 for every 16 units
Boarding house	1 for every 8 required automobile parking spaces
All other Residential uses	None
CIVIC/INSTITUTIONAL USES	
Public assembly, Indoor	1 for every 2,500 sf GFA assembly area
All other Community Service uses	1 for every 5,000 sf GFA
Education uses	1 for every 20 students of planned capacity
Passenger terminal, surface transportation	1 for every 40 projected AM peak period daily riders
All other Civic/Institutional uses	None
COMMERCIAL USES	
Eating or Drinking Establishment uses	1 for every 4,000 sf GFA
Recreation facility, Indoor and Recreation facility, Outdoor	1 for every 4,000 sf of activity area
Performing arts center	1 per 40 seats
Stadium, area, or amphitheater	1 per 40 seats, or 1 per 4,000 sf GFA if no seats

Table 5.2.F(1): Minimum Bicycle Parking Standards for MU-N, MU-AC, CC, MU-UC, and MU-SC Districts

PRINCIPAL USE	REQUIRED MINIMUM NUMBER OF BICYCLE PARKING SPACES [1] [2]
All other Recreation/Entertainment uses	1 for every 5,000 sf GFA
Bank or financial institution	1 for every 3,000 sf GFA
All other Retail Sales and Services uses	1 for every 4,000 sf GFA
All other Commercial uses	None
INDUSTRIAL USES	
All Industrial uses	None

NOTES:

[1] GFA = gross floor area. When calculation of the minimum number of required spaces results in a fractional number, that fractional number shall be rounded to the next highest whole number.

[2] Any short-term or long-term bicycle parking space that complies with subsection (3) below, and with subsection (4) or (5) below, as applicable, shall count toward compliance with the standards in this table.

(2) REDUCTION BASED ON ALTERNATIVE BICYCLE PARKING PLAN

The Planning Director may authorize up to a 50 percent reduction in the minimum number of bicycle parking spaces required by Section 5.2.F(1), Minimum Required Bicycle Parking, if the applicant submits an alternative bicycle parking plan that:

a. Demonstrates the demand and need for bicycle parking on the site is less than required by this section because of the site's location, design, proximity to transit, or other factors; or

b. Offers a strategy that demonstrates other non-auto and non-bicycle travel modes will be used by occupants and users of the development that reduces the demand for bicycle parking spaces.

(3) GENERAL BICYCLE PARKING SPACE STANDARDS

a. Each bicycle parking space shall be located on a paved or similar hard, all-weather surface, having a slope not greater than three percent.

b. Lighting shall be provided for bicycle parking spaces that are accessible to the public or bicyclists after dark.

c. Bicycle parking is encouraged to be visible from the main entrance of the building it serves; however, directional signage shall be provided where a bicycle parking space is not visible from a main entrance to the building for which the bicycle parking space is required.

d. Not more than 25 percent of required short-term bicycle parking spaces and 25 percent of required long-term bicycle parking spaces may be vertical or wall-mounted parking, unless bicycle parking and retrieval services are offered.

e. A bicycle parking rack shall:

1. Allow for the securing of the frame and at least one wheel of a bicycle in a bicycle parking space to the rack with an industry-standard U-shaped bike lock;

2. Provide each bicycle parking space with support for a bicycle in a stable position with direct support to the bicycle frame;

3. Be securely anchored to the ground or to a structural element of a building or structure;

4. Be designed and located so it does not block pedestrian circulation systems and pedestrian pathways;

5. Be constructed of materials designed to withstand cutting, severe weather, and permanent exposure to the elements, such as powder-coated steel or stainless steel;

6. If bicycles must be moved onto or off of the rack parallel to their direction of travel, provide an aisle having a minimum width of five feet between all bicycle parking spaces served by the rack and any bicycle spaces served by another bicycle parking rack, vehicular surface areas, or obstructions, including but not limited to fences, walls, doors, posts, columns, or landscaping areas (see Figure 5.2.F(4)a.1: Illustration of Bicycle Parking Space and Parking Rack Dimensional Standards, and Figure 5.2.F(4)a.2: Illustration of Vertical Bicycle Parking Dimensional Standards);

7. Be located at least three feet from any vertical surface, such as another bicycle parking rack, the side of a building, a tree, or a fence or wall (see Figure 5.2.F(4)a.1: Illustration of Bicycle Parking Space and Parking Rack Dimensional Standards); and

8. Be separated from any abutting vehicular surface area by at least three feet and a physical barrier, such as curbing, wheel stops, reflective wands, bollards, or a fence or wall.

f. Bicycle parking areas shall be maintained free of inoperable bicycles (such as bicycles with flat tires or missing parts) and debris. Bicycle parking racks shall be maintained in good repair, securely anchored, and free of rust.

(4) SHORT-TERM BICYCLE PARKING SPACE STANDARDS

In addition to the standards in subsection (3) above, short-term bicycle parking spaces shall comply with the following standards:

a. The minimum dimensional requirements for a short-term bicycle parking space are:

1. Six feet long by two feet wide (see Figure 5.2.F(4)a.1: Illustration of Bicycle Parking Space and Parking Rack Dimensional Standards); or

2. If designed for vertical storage, four feet long by two feet wide by eight feet high (see Figure 5.2.F(4)a.2: Illustration of Vertical Bicycle Parking Dimensional Standards).

Figure 5.2.F(4)a.1: Illustration of Bicycle Parking Space and Parking Rack Dimensional Standards

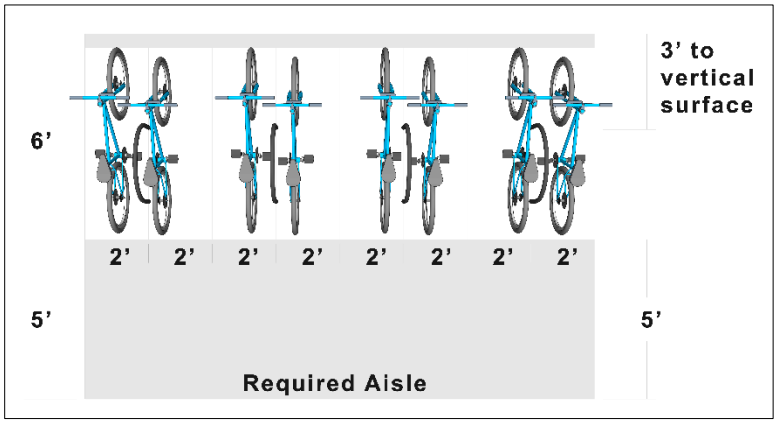
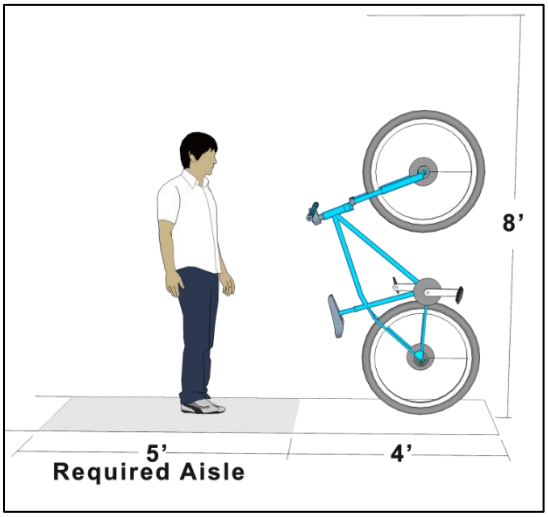


Figure 5.2.F(4)a.2: Illustration of Vertical Bicycle Parking Dimensional Standards



b. A bicycle parking space shall be accessible without moving another parked bicycle.

c. Short-term bicycle parking spaces shall:

1. Include independent access to a bicycle parking rack for supporting and securing a bicycle;

2. Be located within 75 feet of a public entrance to the building for which the space is required, measured along the most direct pedestrian access route, provided that a short-term bicycle parking space located in a bicycle parking area serving more than one use shall be located within 150 feet of a public entrance to the building for which the space is required, measured along the most direct pedestrian access route; and

3. Be located to ensure significant visibility by the public and users of the building for which the space is required.

(5) LONG-TERM BICYCLE PARKING SPACE STANDARDS

In addition to the standards in subsection (3) above, long-term bicycle parking spaces shall comply with the following standards:

a. Include one of the following features:

1. A bicycle locker or similar structure manufactured for the sole purpose of securing and protecting a standard size bicycle from rain, theft, and tampering by fully securing the bicycle in a temporary enclosure; or

2. A secured and dedicated bicycle parking area provided either inside the principal building on the lot, within a parking structure, or in a building located elsewhere on the lot. The secured and dedicated bicycle parking area shall be designed to protect each bicycle from weather, theft, and vandalism.

b. Be located within 500 feet of a public entrance to the building for which the space is required, measured along the most direct pedestrian access route, provided, a long-term bicycle parking space located in a bicycle parking area serving more than one use shall be located within 750 feet of a public entrance to the building for which the space is required, measured along the most direct pedestrian access route.

G. OFF-STREET LOADING AREA STANDARDS

(1) MINIMUM REQUIRED OFF-STREET LOADING BERTHS

New development involving routine vehicular delivery or shipping of goods, supplies, or equipment to or from the development shall provide a sufficient number of off-street loading berths to accommodate the delivery and shipping operations of the development's uses in a safe and convenient manner. Table 5.2.G(1): Minimum Number of Off-street Loading Berths, sets forth the minimum number of loading berths for the different principal uses. For proposed uses not listed in Table 5.2.G(1), the requirement for a use most similar to the proposed use shall apply.

Table 5.2.G(1): Minimum Number of Off-street Loading Berths

Use Classification, Category, or Type	Gross Leasable Area or Number of Units	Minimum Number of Loading Berths
Residential Uses, Civic/Institutional Uses, and Commercial Uses		
Multifamily dwelling or Residential Care facility	Between 100 and 300 units	1
	Each additional 200 units above 300 units, rounded to the nearest 200 units	Add 1
Health Care uses, Business Services uses, or Hotel or Motel	Between 10,000 sf and 100,000 sf	1
	Each additional 100,000 sf above 100,000 sf, rounded to the nearest 100,000 sf	Add 1
Retail Sales and Services	Between 10,000 and 20,000 sf	1
	More than 20,000 sf up to 60,000 sf	2
	Each addition 60,000 sf above 60,000 sf, rounded to the nearest 60,000 sf	Add 1
Industrial Uses		
Industrial Services uses; Manufacturing, Assembly, or Fabrication uses; Warehousing, Freight Movement, and Wholesale Sales uses	Up to 50,000 sf	1
	More than 50,000 sf up to 120,000 sf	2
	More than 120,000 sf up to 220,000 sf	3
	More than 220,000 sf up to 220,000 sf	4
	More than 350,00 sf up to 550,000 sf	5
	More than 550,000 sf up to 850,000 sf	6

Table 5.2.G(1): Minimum Number of Off-street Loading Berths

Use Classification, Category, or Type	Gross Leasable Area or Number of Units	Minimum Number of Loading Berths
	Each additional 400,000 sf above 850,000 sf, rounded to the nearest 400,000 sf	Add 1

NOTES:
[1] sf = square feet.

(2) DIMENSIONAL STANDARDS FOR LOADING BERTHS

a. Each loading berth shall be of sufficient size to accommodate the types of vehicles likely to use the loading area. To ensure compliance with this general standard, the Planning Director may require a larger loading berth or allow a smaller loading berth upon determining that the characteristics of the particular development warrants such an increase or reduction.

b. The minimum size of a loading berth is 12 feet wide and 25 feet long, subejct to subsection a above, and the following:

1. Uses in the Industrial use classification are presumed to require loading berths at least 15 feet wide and 45 feet long; and

2. Where full-length tractor trailers must be accommodated, loading berths at least 15 feet wide and 55 feet long are required.

(3) LOCATION, SCREENING, AND ARRANGEMENT OF LOADING BERTHS

a. Off-street loading berths shall be located on the same lot as the use they serve and shall have access directly from the site they serve to public streets.

b. Off-street loading berths shall be located and arranged to minimize interference with traffic on streets and to ensure pedestrian safety.

c. Off-street loading berths shall be located and arranged so that vehicles can maneuver for loading and unloading entirely within the property lines of the site, and are not required to back onto or from a public street.

d. Off-street loading berths shall be located and arranged so that vehicles using the berth do not protrude, when parked for loading or unloading, into any required parking space or access aisle, pedestrian way, or street right-of-way .

e. Off-street loading berths shall be located and/or screened so they are not visible from any thoroughfare or collector street right-of-way or from adjacent lands that are classified in a residential zoning district or developed with a residential use (see Section 5.3, Landscaping and Buffer Standards).

(4) SURFACING

Off-street loading areas shall be surfaced with concrete, bituminous asphalt, or alternative materials exhibiting equivalent load bearing and wear characteristics as concrete or bituminous asphalt, as determined by the Director of Engineering.

SECTION 5.3. LANDSCAPING AND BUFFER STANDARDS

A. PURPOSE AND INTENT

The purpose and intent of these landscape and buffer standards are to:

(1) Improve the quality of the built and natural environments through air quality enhancements, energy conservation, reductions in the amount and rate of stormwater runoff and erosion, and increased capacity for groundwater recharge;

(2) Preserve natural resources, native plants, and trees, including specimen and heritage trees;

(3) Minimize potential conflicts between incompatible abutting developments;

(4) Reduce soil erosion and increase infiltration in permeable land areas essential to stormwater management and aquifer recharge;

(5) Enhance the City's streetscapes by:

a. Separating the pedestrian from motor vehicles;

b. Abating glare and moderating temperatures of impervious areas;

c. Filtering air of fumes and dust;

d. Providing shade;

e. Attenuating noise; and

f. Reducing the visual impact of large expanses of pavement;

(6) Ensure the design of entryways into the City reflects the City's vision as detailed in adopted plans;

(7) Promote innovative and cost-conscious approaches to the design, installation, and maintenance of landscaping while encouraging water and energy conservation;

(8) Screen unsightly equipment or materials from the view of persons on public streets or adjoining properties and buffer them from uncomplimentary land uses;

(9) Enhance the appearance of buildings and parking lots by requiring site-appropriate landscaping to be incorporated into development that is designed and installed by a qualified landscape professional; and

(10) Promote resilience and sustainability.

B. APPLICABILITY

(1) GENERAL

a. NEW DEVELOPMENT

Except as otherwise provided in Section 5.3.B(2), Exemptions, all new development shall comply with the standards in this section.

b. ADDITION OR EXPANSION

1. Except as otherwise provided in subsection 2 below, or in Section 5.3.B(2), Exemptions, if an existing structure is expanded or enlarged, landscaping and buffering shall be provided in accordance with the standards in this section.

2. Except as otherwise provided in in Section 5.3.B(2), Exemptions, where the existing landscaping and buffering on the site of a proposed addition to or expansion of an existing structure is

nonconforming with regard to the standards in this section (see Article 7, Nonconformities), the nonconforming landscaping and buffering shall be brought into compliance with the standards in this section in accordance with Table 5.3.B: Scaled Compliance of Nonconforming Landscaping and Buffering.

Table 5.3.B: Scaled Compliance of Nonconforming Landscaping and Buffering

Size of Addition or Expansion	Minimum Required Compliance
Additions or expansions to a structure that increase its gross square footage by 20 percent or less	The nonconforming landscaping and buffering may continue; no additional compliance is required
Additions or expansions to a structure that increase its gross square footage by more than 20 percent but less than 75 percent	The nonconforming landscaping and buffering shall be brought into compliance with the standards of this Ordinance by a corresponding percentage of full compliance, up to achievement of 100 percent compliance [1]
Additions or expansions to a structure that increase its gross square footage by 75 percent or more	The nonconforming landscaping and buffering shall be brought into full compliance with the standards of this Ordinance
NOTES: [1] This percentage applies to nonconforming landscape yard or planting area widths and to numbers of trees and shrubs. It does not apply to any required fence, wall, or berm.	

c. CHANGE OF USE

Except as otherwise provided in in Section 5.3.B(2), Exemptions, a change of use of an existing structure or land shall not occur unless landscaping and buffering is provided in accordance with the requirements of this section.

d. DIMENSIONAL STANDARDS SUPERSEDE

For the purpose of this section, required building setbacks, build-to-lines, and build-to-zones shall supersede planting yard requirements.

(2) EXEMPTIONS

a. The following are exempt from all standards in this section:

1. Development of single-family detached dwelling, duplex, and triplex uses on an individual lot;

2. Any individual expansion of a building that increases the building's floor area by 20 percent or less of the existing floor area, provided the expansion does not result in a required increase in off-street parking spaces serving the building of more than 20 percent of existing parking spaces or more than 15 parking spaces;

3. Any change of use or alteration of the interior of a building that does not result in a required increase in the number of off-street parking spaces serving the building of more than 20 percent of existing parking spaces or 15 parking spaces;

4. Uses in the Agricultural/Rural use classification; and

5. Sites containing unoccupied public utility equipment that are less than 1,000 square feet in area, if the equipment is completely screened from view from adjoining rights-of-way and lots.

b. Development in the CC zoning district is exempt from all standards in this section except Section 5.3.H, Parking Lot Landscaping, and Section 5.3.J, Tree Protection.

c. The following are exempt from the standards in Section 5.3.G, Perimeter Buffer Yards:

1. Lots or parcels on which the uses or buildings demonstrate compatible design elements and are linked to adjacent lots or buildings by a common system of sidewalks or other pedestrian walkways across property lines;

2. Lots or parcels separated by a public street right-of-way greater than 30 feet in width; or

3. Lots or parcels separated by a railroad right-of-way.

d. Development that results in an increase in off-street parking spaces that is not greater than 40 percent of existing spaces and does not exceed 15 spaces is exempt from the standards in Section 5.3.H(5), Interior Planting Areas.

e. The following are exempt from standards in Section 5.3.J, Tree Protection:

1. Routine or seasonal pruning in accordance with Section 5.3.F(10), Maintenance of Landscape Areas;

2. The removal or pruning, after providing documentation to the Planning Director of the condition of the tree(s), of dead or naturally fallen trees; trees damaged during a hurricane, tornado, ice or wind storm, or flood; or trees that are found by the Planning Director to be a threat to the public health, safety, or welfare;

3. The selective and limited removal or pruning of trees or vegetation necessary to obtain clear visibility at driveways or intersections;

4. The removal or pruning of trees within a utility easement by a utility company;

5. The removal of trees when required by the Federal Aviation Administration (FAA); and

6. The removal or pruning of trees or vegetation on land zoned or lawfully used for commercial cultivation of trees to be sold for transplantation, outside of any right-of-way, transitional buffer yard, street yard, or interior planting area in a vehicular surface area.

(3) ALTERNATIVE LANDSCAPING

a. If unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this section serve no meaningful purpose or would make it physically impossible to install and maintain the required landscaping, the Planning Director may approve, at the request of an applicant, alternative landscaping, on finding all of the following:

1. The alternative landscaping is consistent with the spirit and intent of this section;

2. No invasive vegetation is proposed;

3. Tree planting requirements are not reduced;

4. The alternative landscaping complies with Section 5.3.J, Tree Protection;

5. The visual appearance of the property with the alternative landscaping is equal or superior to what it would be with the required landscaping; and

6. Absorption of greenhouse gases and reduction of heat island by the property with the alternative landscaping is equal or superior to what it would be with the required landscaping.

b. The applicant requesting approval of alternative landscaping shall submit a plat to the Planning Director showing existing site features that would screen the proposed use and any additional screen materials the developer may propose to install.

c. The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the landscaping requirements contained in this Ordinance. Neither shall the desire of an owner to

make a more intensive use or greater economic use of the property be grounds for reducing the landscaping requirements.

(4) NCDOT PLANTING PERMIT REQUIRED

All proposed landscaping within an NCDOT right-of-way shall require approval of a planting permit from the NCDOT Division Roadside Environmental Engineer and shall comply with NCDOT's Guidelines for Planting Within Highway Right-of-Way.

C. TIMING OF REVIEW

Review for compliance with the standards of this section shall occur during review of a development application for a conditional zoning (Section 2.5.A(3)), planned development (Section 2.5.A(4)), special use permit (Section 2.5.A(5)), site plan (Section 2.5.B(1)), minor subdivision (Section 2.5.B(2)), major subdivision (Section 2.5.B(3)), or tree removal permit (Section 2.5.C(3)), as appropriate.

D. INSTALLATION OR SURETY REQUIRED

No certificate of compliance for development subject to the requirements of this section shall be issued until the applicant has installed landscaping in accordance with the requirements of this section and the LDSM, except a temporary certificate of compliance may be issued if financial surety is provided in accordance with Section 5.3.F(3), Installation of Required Landscaping.

E. LANDSCAPING PLAN

A landscaping plan that complies with the requirements in Appendix A: Supplemental Landscaping Requirements, shall be submitted with an application for any development subject to the requirements of this section. The plan shall depict how the proposed development complies with the standards of this section.

F. GENERAL LANDSCAPING STANDARDS

The installation and maintenance of all plantings and other improvements required by this section shall comply with the following standards.

(1) PLANT SPECIES AND MATERIALS

a. ALLOWED SPECIES

1. All trees, shrubs, and other vegetative material used to meet the standards in this section shall be from the list of acceptable species in Appendix A: Supplemental Landscaping Requirements.

2. The use of species identified as invasive plant species in Appendix A: Supplemental Landscaping Requirements, is prohibited.

b. MINIMUM SPECIES DIVERSITY

To curtail the spread of disease and insect infestation in a plant species, new shrub and tree plantings shall be of different genera in accordance with Table 5.3.F(1). Required Shrub and Tree Genus Diversity. Where different genera of shrubs and trees are required in accordance with Table 5.3.F(1), each required genus shall be planted in roughly equal proportions with the other required genera. Nothing in this subsection shall be construed to prevent the planting of a greater number of different species than specified in Table 5.3.F(1).

TABLE 5.3.F(1): Minimum Required Shrub and Tree Genus Diversity

Minimum Number of Shrubs or Trees Required on Site	Minimum Number of Genera of Shrubs or Trees Required on Site
Shrubs	
40 or fewer	2
More than 40 but fewer than 70	3
70 or more	4
Trees	
20 or fewer	2
More than 20 but fewer than 40	3
40 or more	4

c. ENHANCED CREDIT FOR USE OF NATIVE SPECIES

The use of native species identified in Appendix A: Supplemental Landscaping Requirements, shall receive enhanced credit toward plantings required by this section as follows:

1. Native trees shall be credited at a rate of seven native trees for every eight required trees; and
2. Native shrubs shall be credited at a rate of five native shrubs for every six required shrubs.

d. ADAPTED TO SITE CONDITIONS

Vegetative material shall be adapted to the site conditions where it will be planted. The use of xeriscaping with native, drought-tolerant vegetation is encouraged to reduce dependency on irrigation. All plant material shall be free of disease and insects and conform to the "American Standard for Nursery Stock" (ASNS) as set forth by the American Horticulture Industry Association.

e. MINIMIZE INTERFERENCE WITH OVERHEAD UTILITY LINES

Trees planted in street yards or utility rights-of-way where there are existing or planned overhead utility lines shall be of slow-growing, pest- and disease-resistant species having a height at maturity that will minimize interference with the lines.

f. VARIATION FROM APPROVED LANDSCAPE PLAN

The Planning Director may approve the installation of comparable substitution plant materials to satisfy the requirements of the approved landscape plan when the approved plants and landscape material are not available at the time of installation or when other unforeseen conditions prevent the use of the exact materials shown on the approved landscape plan. Significant changes that require the substitution or relocation of more than 25 percent of the plant materials shall require a new landscape plan and approval through the plan review process.

(2) MINIMUM PLANT SIZES AT INSTALLATION

Unless otherwise specifically stated in this section or the applicable Appendix, the minimum plant size of required landscaping at the time of installation shall comply with Table 5.3.F(2): Minimum Plant Sizes.

Table 5.3.F(2): Minimum Plant Sizes

Plant Material Type	Minimum Size [1]
Shade Tree	2.5 in. caliper and12 ft. tall

Table 5.3.F(2): Minimum Plant Sizes

Plant Material Type	Minimum Size [1]
Evergreen/Coniferous Tree	6 ft. tall
Ornamental/Small Understory Tree	
Single-stem Tree	2 in. caliper
Multi-stem Tree	1.5 in. caliper
Shrub	3-gallon container size and 18 in. tall

TABLE NOTES

[1] The Planning Director may vary the minimum size by up to 20 percent to account for variation among allowed genera and species.

[2] The caliper or diameter of trees shall be measured six inches from the ground level up to a four-inch caliper diameter and at 12 inches for four-inch caliper diameter or greater.

(3) INSTALLATION OF REQUIRED LANDSCAPING

a. Preparation of plant pits, hedge trenches, and shrub beds shall comply with the installation requirements Appendix A: Supplemental Landscaping Requirements.

b. All plants shall be installed so as to ensure their best chance of survival and to reduce the potential expense of replacing damaged plant materials. Sufficient soil volume shall be provided for tree roots to allow for the tree's healthy growth and survival to its mature size.

c. If the season, weather, or water rationing conditions prohibit planting of trees or shrubs, the developer may provide a performance guarantee, an irrevocable letter of credit, or other financial surety in an amount equal to 150 percent of the cost of installing the required trees or shrubs to guarantee the completion of the required planting. A temporary certificate of compliance for the development shall be issued only on approval of the financial surety (see Section 2.5.C(2), Certificate of Compliance). All required improvements must be completed within the time period established in the development approval, or within 18 months of the date the developer provides financial surety, whichever period is shorter. The developer may request and the Planning Director may grant, for good cause shown, one extension, not to exceed one year, of the period for completion.

(4) CREDIT FOR EXISTING VEGETATION

Existing vegetation in good health that meets all applicable standards in this section may be used to satisfy any planting requirements, provided the vegetation is in fair or better condition and is protected before and during development in the same manner required for a protected tree in accordance with Section 5.3.J(9), Tree Protection During Construction.

(5) GROUNDCOVER IN LANDSCAPED AREAS

a. Except immediately around plantings where organic mulch is used to maintain soil moisture and prevent the growth of weeds, areas where landscaping is required shall be completely covered with vegetative or inorganic ground cover as follows:

1. Inorganic ground covers consisting of river rock or similar materials may cover up to 20 percent of the required landscape planting area.

2. Vegetative ground covers shall cover all required landscaping areas that are not covered by inorganic ground covers or organic mulch as set forth in this section, within two years of installation, or, in the case of turf or grass seeding, at the time of installation.

b. All planted materials are to be mulched with an organic type of mulch such as shredded bark, ground wood chips (not sawdust), or pine straw. Mulch shall be applied as follows:

1. For trees and shrubs, three to four inches deep at the base of shrubs and trees or from the trunk to the dripline for newly-planted trees; and

2. For ground cover and perennials, one to two inches deep sufficient in coverage to conserve moisture and suppress weeds without inhibiting growth of the landscape plants.

(6) IRRIGATION

Where necessary to ensure long-term survival of plantings, an irrigation system shall be planned, installed, and maintained to ensure optimum moisture for healthy growth and survival. Use of water conserving irrigation techniques, such as use of a rain sensor, and re-use of rainwater, is encouraged. The use of wells is also encouraged for irrigation.

(7) BERMS

Berms shall comply with the following design standards:

a. The slope shall not exceed a two-to-one ratio (horizontal to vertical);

b. The berm shall have a top width at least one-half the berm height;

c. The berm shall have a maximum height of six feet above the toe of the berm;

d. All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation, provided, no berm shall consist entirely of turf grass, mulch, or similar material;

e. The berm shall be free of structures, including fences, unless as part of the landscaping requirements;

f. No berm may be used for the display of vehicles or other merchandise;

g. Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and along the street; and

h. Berms shall not damage the roots of existing healthy vegetation designated to be preserved.

(8) FENCES AND WALLS

Fences and walls in landscape areas shall comply with Section 5.5, Fence and Wall Standards.

(9) SIGHT TRIANGLES

Sight triangles shall be maintained free of obstructions, including trees, shrubs, and other vegetation and fences, walls, and berms.

(10) MAINTENANCE OF LANDSCAPE AREAS

a. RESPONSIBLE PARTY

1. Required landscaping shall be maintained in perpetuity in accordance with subsections b through g below. The applicant and the landowner(s), if different from the applicant, shall be jointly and severally responsible for maintenance of landscaping during its initial installation. After initial installation, the owner(s) and any tenant of the property upon which the landscaping is installed shall be jointly and severally responsible for maintenance of all required landscaping, subject to subsection 2 below.

2. Within residential subdivisions, the maintenance of street trees in planting strips between curbs and sidewalks which are within the street right-of-way shall be the responsibility of the respective

homeowners association, or the abutting property owner, in the absence of a homeowners association.

b. GENERAL MAINTENANCE REQUIREMENTS

1. All required plant material shall be maintained in a healthy, vigorous, growing condition as is appropriate for the season. Plant materials which exhibit evidence of insect pests, disease, deterioration, and/or damage shall be appropriately treated or replaced. Dead plants shall be promptly removed and replaced within the next planting season after removal. If replacement is necessary, all plants and other non-living landscape materials shall be equal in size, density, and appearance as originally required at the time of the approval of the development permit. The Planning Director shall have the authority to review landscaping and require replanting if necessary to maintain the required landscape plants in good health.

2. All required landscaping shall be maintained in a neat and orderly manner at all times, which shall include mowing, edging, pruning, fertilizing, watering, weeding, and other activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other materials or plants not a part of the landscaping.

c. MAINTAIN SHAPE

All required trees shall be allowed to reach their mature size and shall be maintained at their mature size. Except for trimming and pruning within a utility easement in accordance with applicable policies of the affected utility, required plants shall not be cut or severely pruned or otherwise damaged so that their natural form is impaired. Any tree that has been severely pruned, sheared, topped, or shaped as a shrub, shall be considered as damaged vegetation in need of replacement in accordance with Section 5.3.F(10)e, Damage Due to Natural Occurrence, and shall be replaced within one growing season with a tree at least four inches in caliper.

d. PROTECTION DURING OPERATIONS

1. The owner or developer shall take actions to protect trees and landscaping from damage during all facility and site operations.

2. Plants shall be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.

3. If a planting area required by this section is adjacent to parking or vehicular circulation areas, the planting area shall be protected from vehicular intrusion or damage from excessive vehicular lubricants or fuels.

e. DAMAGE DUE TO NATURAL OCCURRENCE

If any vegetation or physical element functioning to meet the standards of this section is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner or developer shall be required to replant if the landscaping standards are not being met. The Planning Director shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural re-vegetation in making a determination on the extent of replanting requirements. The owner shall have 12 months to replace or replant in accordance with the Planning Director's determination.

f. NATURAL DEATH

The natural death of existing vegetation within any required landscape area does not necessarily constitute a violation and does not require re-vegetation to replace the plant material unless the required landscape area no longer complies with the required standards of this section. In no

instance shall this provision be construed to prevent re-planting if, in the opinion of the Planning Director, the required performance standard of the landscaping is not being met.

g. INSTALLATION OF ADDITIONAL SCREENING OR PLANTING

If after two years following installation of required screening plant materials, the plants have not formed an effective screen, or if an effective screen is not maintained, the Planning Director may require that another type of screen be added or additional plantings be installed.

G. PERIMETER BUFFER YARDS

(1) PURPOSE

The purpose of perimeter buffer yards is to:

a. Provide a transitional buffer between uses or buildings to improve their compatibility; and

b. Ensure that a natural area of appropriate size and density of plantings is planted or preserved between uses, as appropriate.

(2) GENERAL

a. LOCATION AND MEASUREMENT

1. Perimeter buffers required by this section shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line.

2. In cases where the parcel boundary line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the property line.

3. Minimum dimensions shall be measured from the respective property line, except where perimeter buffer yards are permitted to straddle property lines. Where perimeter buffer yards turn at property corners, the length measurements determining plant quantities shall not be required to overlap.

b. BUILDINGS, EQUIPMENT, AND SIGNS IN BUFFER YARD

1. The construction of any building or the placement of any mechanical equipment within the perimeter buffer yard is not permitted except for equipment necessary for the provision of public utilities.

2. Signs may be placed within the buffer yard consistent with the Sign Regulations of this Ordinance.

c. USES ALLOWED IN BUFFER YARD

1. Active recreational uses, such as play fields, swimming pools, racquetball and tennis courts or other active, structured recreational uses, or circulation drives and parking lots, shall not be permitted in the perimeter buffer yard.

2. The following uses are permitted in a perimeter buffer yard if none of the required plant material is eliminated, the intended screening is accomplished, the total width of the buffer yard is maintained, and all other requirements of this section are met:

(a) Passive recreation;

(b) Sculptures, outdoor furniture, or picnic areas;

(c) Pedestrian or bicycle trails;

(d) Stormwater retention basins; or

(e) Parks and open space.

(3) BUFFER TYPES DEFINED

Table 5.3.G(3): Landscape Buffer Options, defines four types of buffers based on their function, width, and minimum screening requirements. Each buffer type includes two options for plantings and other screening.

Table 5.3.G(3): Landscape Buffer Options
ACI = Aggregate Caliper Inches

Buffer Type	Description	Minimum Screening Requirement	
		Option 1	Option 2
Type A: Basic Buffer (Minimum Width: 6 ft.)			
	This buffer functions as a basic edge demarcating individual properties with slight visual obstructions from the ground to a height of ten feet.	6 ACI of canopy trees + 6 ACI of understory trees per 100 linear feet	2 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet
Type B: Aesthetic Buffer (Minimum Width: 6 ft.)			
	This buffer functions as an intermittent visual obstruction from the ground to 20 feet, and creates the impression of spatial separation without eliminating visual contact between uses.	8 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	2 ACI of canopy trees + 14 ACI understory trees + 20 shrubs per 100 linear feet
Type C: Semi-Opaque Buffer (Minimum Width: 8 ft.)			
	This buffer functions as semi-opaque screen from the ground to at least a height of six feet.	12 ACI of canopy trees + 14 ACI of understory trees + 20 shrubs per 100 linear feet	One 4-foot-high berm or one 4-foot-high solid fence + 2 ACI of canopy trees + 16 ACI understory trees per 100 linear feet
Type D: Opaque Buffer (Minimum Width: 16 ft.)			
	This buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong separation.	18 ACI of canopy trees + 20 ACI of understory trees + 35 shrubs per 100 linear feet	One 6-foot-high fence + 12 ACI of canopy trees per 100 linear feet

(4) REQUIRED BUFFER TYPE

Table 5.3.G(4): Required Buffer Type specifies the type of perimeter landscape buffer that new development shall provide between it and adjacent property, based on the proposed use of the development site and the use of the adjacent property, or, if the adjacent land is vacant, the zoning district classification of the adjacent land. The required buffer types in Table 5.3.G(4) are indicated by letters corresponding to the buffer types defined in Table 5.3.G(3): Landscape Buffer Options.

Table 5.3.G(4): Required Buffer type
A = Type A Buffer B = Type B Buffer C = Type C Buffer D = Type D Buffer " - " = No Perimeter Buffer Yard Required

Use Proposed	Existing Use or Zoning of Vacant Land on Adjacent Site [1]			
	Single-Family Detached Dwelling or Townhouse [R1, R2, R4, R6, R7]	Multifamily Dwelling [R8, R18]	Use in the Civic/Institutional or Commercial use Classifications [O-I, MU-N, MU-AC, CC, MU-UC, MU-SC, TOD, GC]	Uses in the Industrial Use Classification [LI, HI]
Single-Family Detached Dwelling or Townhouse	-	B	B	D
Multifamily dwelling	C	A	B	D
Any use in the Civic/Institutional or Commercial use classification	C	B	-	C
Uses in the Industrial use classification	D	D	D	-

NOTES:
[1] The zoning district classification of vacant land is indicated in brackets in the table heading row. If the vacant land is classified in a conditional zoning district, the classification of the corresponding base zoning district shall apply for purposes of determining required buffer type. If the vacant land is classified in a planned development district, the use of the adjacent site that is indicated on the PD Master Plan for the district shall apply for purposes of determining required buffer type.

(5) ALTERNATIVE BUFFER YARD

a. The Planning Director may approve an alternative buffer yard from what is required by this section in cases where there is unusual topography or elevation, unusual soils or other sub-surface conditions, or existing vegetation, only if the Planning Director finds the applicant demonstrates that existing features and any additional buffer yard materials will buffer the proposed use as effectively as the required buffer yard, and that the proposed alternative buffer yard complies with the spirit and intent of this section.

b. Approval of an alternative buffer yard in accordance with subsection a above, may occur only at the request of the applicant, who shall submit a plan showing existing site features that would buffer the proposed use and any additional buffer yard materials the property owner will plant or construct to buffer the proposed use.

c. If, two years following approval of an alternative buffer yard, the Planning Director determines the spirit and intent of this Ordinance is no longer met, the site shall be required to meet the perimeter buffer yard requirements of this section.

H. PARKING LOT LANDSCAPING

(1) PURPOSE

The standards set forth in this subsection for the provision of landscaping in and around parking lots are designed to:

a. Facilitate the transition from automobile-oriented to pedestrian-oriented built environments;

b. Enhance lot appearance;

c. Provide shade to reduce heat and glare reflected by paving;

d. Reduce the heat island effect;

e. Reduce stormwater runoff;

f. Filter particulate and gaseous pollutants from the air; and

g. Reduce the glare of headlights and noise on surrounding properties.

(2) APPLICABILITY

a. The following shall comply with the standards in this subsection:

1. Any new parking lot;

2. Any new, additional, or expanded portion of an existing parking lot; and

3. Any existing parking lot that is used to satisfy the off-street parking requirements for a new building or the expansion of an existing building.

b. Parking lots with fewer than five total parking spaces are exempt from the parking lot landscaping requirements.

(3) VEHICULAR SURFACE AREA SCREENING

a. MINIMUM PERIMETER LANDSCAPING REQUIREMENTS

Screening is required along the perimeter of a parking lot, except in locations where parking area entrances, sight triangles, building yards, or other features require breaks in screening. Such screening shall consist of a continuous row of evergreen shrubs having a maximum separation of 6 feet on center and a minimum 2 foot height at installation with an expected height of 3 to 5 feet at maturity, and/or a masonry wall 3 feet to 5 feet in height. In addition, shade trees shall be planted with a maximum average spacing of 30 feet on center, except in areas lying under overhead power lines, where ornamental trees shall be planted with a maximum average spacing of 20 feet on center.

b. SCREENING FROM ABUTTING RESIDENTIAL ZONE OR USE

Except where a perimeter buffer is required in accordance with Section 5.3.G, Perimeter Buffer Yards, any off-street parking area that directly abuts a residential district or a lot with a current residential use shall be screened from view from the residential district or lot by a continuous wall, berm, fence, or row of planting at least six feet tall. Such screen shall be designed to provide a minimum 75 percent opacity on a year-round basis beginning one year after planting along the full required height and length of the screening.

(4) BUILDING YARDS

a. GENERAL

1. Building yards shall be provided along any portions of a building facing an adjacent off-street parking area in accordance with this section, and landscaped consistent with the requirements of this section.

2. Entrance walkways to buildings may cross building yards.

b. BUILDING YARD TYPES DEFINED

Table 5.3.H(4)b: Building Yard Types, defines building yard types based on their minimum width and required plantings.

Table 5.3.H(4)b: Building Yard Types

Building Yard Type	Min. Width (ft.) [1]	Min. Required Ornamental Trees [2] [3]	Min. Required Evergreen Shrubs [2] [3]
1	5	1 per 30 linear ft.	1 per 3 linear ft.
2	8	1 per 30 linear ft.	1 per 3 linear ft.
3	10	1 per 25 linear ft.	1 per 2 linear ft.
4	15	1 per 25 linear ft.	1 per 2 linear ft.

NOTES:

[1] Widths shall be measured from the respective building front wall.

[2] Based on the linear feet of building facing the adjacent off-street parking area, excluding loading/unloading areas and the width of any entrance walkways. The width excluded for an entrance walkway shall not exceed the width of the associated entrance to the building.

[3] Where building yards turn at building corners, the length measurements determining plant quantities shall not be required to overlap.

c. REQUIRED BUILDING YARD TYPE

Table 5.3.H(4)c: Required Building Yard, specifies the type of building yard required, based on size of the building facing the adjacent off-street parking area. The required building yard types in Table 5.3.H(4)c are indicated by numbers corresponding to the building yard types defined in Table 5.3.H(4)b: Building Yard Types.

Table 5.3.H(4)c: Required Building Yard

Building Gross Floor Area (sq. ft.)	Required Building Yard Type
Less than 2,500	1
Between 2,500 and 9,999	2
Between 10,000 and 99,999	3
100,000 or more	4

(5) INTERIOR PLANTING AREAS

All parking lots shall include interior planting areas that comply with the standards in this section.

a. GENERAL INTERIOR PARKING LANDSCAPING REQUIREMENTS

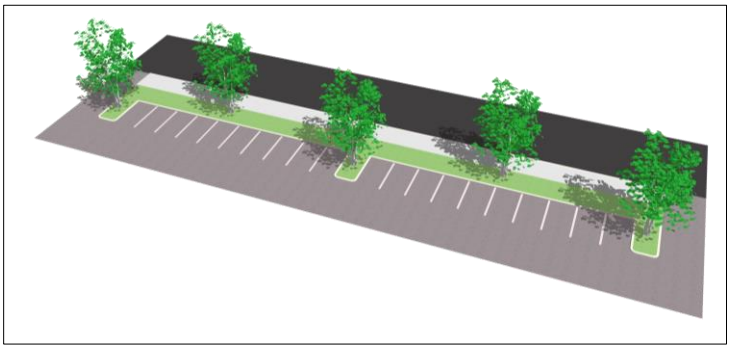
1. Minimum Landscape Plantings

(a) Interior landscaping of parking lots shall be organized such that sections of 35 or fewer parking spaces are enclosed by shade trees spaced not more than 40 feet on center or a building wall.

Required trees shall be planted in planting islands or medians between rows or parking spaces in a manner such that no parking space is located more than 60 feet from a parking lot tree.

(b) Planting islands shall be distributed so that rows of parking between any two planting islands contain an average of ten or fewer contiguous spaces. Terminal planting islands are required at the ends of rows. (see Figure 5.3.H(5)a.1(b): Interior Parking Area Minimum Plantings).

Figure 5.3.H(5)a.1(b): Interior Parking Area Minimum Plantings



(c) Each parking lot containing 15 or more parking spaces shall have a minimum of one canopy tree, plus an additional one canopy tree for every ten additional parking spaces or any portion thereof.

(d) Interior landscaping shall account for a minimum of ten percent of the total area of any parking lot containing 15 or more parking spaces.

2. Planting Area Dimensional Requirements

Planting islands shall be not less than nine feet in width and shall include a minimum of 200 square feet of open planting area, except where planting islands incorporate collection of stormwater runoff through vegetated swales, rain gardens, or similar features, the minimum planting area shall be 170 square feet. Shrubs, or ground covers may be planted within the required open planting area for trees without increasing the area.

b. LARGE PARKING LOTS

In addition to the standards in subsection a above, parking lots having 200 or more parking spaces shall comply with the standards in Section 5.2.D(2)h, Large Parking Lots.

(6) STRUCTURES AND MECHANICAL EQUIPMENT

Dumpsters shall be set on a concrete pad and shall be screened with an opaque fence or wall of sufficient height, as required in Section 5.7.H, to screen the container and any appurtenances. Trash containers shall not be located abutting residential property. All mechanical equipment shall be screened from view with an opaque screen.

I. STREET YARDS

(1) GENERAL

a. Except in new single-family residential subdivisions, street yard landscaping requirements in this section shall be in addition to, and not replace, street tree planting between the sidewalk and curb required by this Ordinance and the LDSM.

b. In areas where the parking lot is directly adjacent to the street, minimum perimeter landscaping required by Section 5.3.H(3)a, Minimum Perimeter Landscaping Requirements, shall take the place of required street yards.

(2) STREET YARD LANDSCAPING REQUIREMENTS

Street yards shall be planted with trees in accordance with Table 5.3.I(2): Street Yard Tree Planting Requirements. In addition, at least 60 percent of the street yard area not used for shade or ornamental trees or for vehicular access shall be covered in shrubs.

Table 5.3.I(2): Street Yard Tree Planting Requirements

Zoning Districts	Min. Width (ft.) [1]	Min. Required Shade or Ornamental Trees
Residential	5	1 per 50 linear ft.
Mixed-Use, Commercial, and Industrial	8	1 per 35 linear ft.

NOTES:

[1] Widths shall be measured from the respective right-of-way/property line. Where street yards turn at street corners, the length measurements determining plant quantities shall not be required to overlap.

J. TREE PROTECTION

(1) GENERAL

All development in the City shall be required to protect specimen and heritage trees in accordance with this section.

(2) EXEMPTIONS

The following types of trees, regardless of their size, do not need to be protected and are exempt from the requirements in this section:

a. Southern Yellow Pine;

b. Bradford Pear;

c. Mulberry;

d. Sweetgum; and

e. Silver Maple.

(3) SPECIMEN TREES DEFINED

Trees of the types identified in Table 5.3.J(3): Specimen Trees, having a caliper measurement meeting or exceeding the corresponding minimum caliper in Table 5.3.J(3), shall be considered specimen trees under this section.

Table 5.3.J(3): Specimen Trees

Common Tree Name	Minimum Caliper [1]
Canopy Trees	
Ash	18
Cherry	24

Table 5.3.J(3): Specimen Trees

Common Tree Name	Minimum Caliper [1]
Elm	18
Live Oak	18
Locust	18
Long Leaf Pine	12
All other Pine (except Southern Yellow pine)	30
Red Maple	18
Sassafras	20
Southern Red Oak	32
Sycamore	30
Walnut	18
White Oak	18
Willow Oak	18
Understory Trees	
Bald Cypress	10
Cedar	6
Dogwood	10
River Birch	10
Wax Myrtle	6

NOTES:

[1] Minimum caliper is the circumference of the tree trunk measured 12 inches above the ground for trees between four and ten inches in diameter, and 54 inches above the ground (4.5 feet) for trees larger than 10 inches in diameter.

(4) TREE PROTECTION ZONE ESTABLISHED

a. Specimen trees and existing on-site trees preserved for incentives (see subsection (8) below), and the root zone within an area one foot beyond the tree's drip line, shall be designated as a tree protection zone on lots or sites subject to the standards in this section.

b. The location, species, and size of all specimen trees and existing on-site trees to be preserved for incentives (see subsection (8) below), and their corresponding tree protection zones, shall be depicted on the landscaping plan, which shall be certified by an arborist, landscape architect, or other professional having relevant expertise, and shall be depicted on the corresponding conceptual plan, PD Master Plan, development plan, site plan, subdivision plat, or tree removal permit, or grading permit, as appropriate.

(5) GENERAL REQUIREMENTS

No specimen tree within a tree protection zone may be removed, except in accordance with Section 5.3.J(6), Removal of a Specimen Tree. In addition, all specimen trees in a tree protection zone shall have the following protections, whether located on public or private land:

a. Specimen trees shall not be cut, removed, pushed over, killed, or otherwise harmed.

b. The area within the tree protection zone of any specimen tree shall not be subject to paving or soil compaction.

(6) REMOVAL OF A SPECIMEN TREE

A specimen tree may be removed from a tree protection zone if the landowner demonstrates to the Planning Director one of the following conditions:

a. The specimen tree is in healthy condition, and all of the following standards are met:

1. The landowner is otherwise in compliance with this section;

2. The specimen tree prevents development of a lot platted prior to July 1, 2022, in a way that limits building area to less than otherwise allowed, or hinders compliance with the standards in Article 3: Zoning Districts, Article 5: Development Standards, or Article 6: Subdivision Standards; and

3. Mitigation is provided in accordance with Section 5.3.J(7), Replacement/Mitigation of Specimen Trees.

b. The specimen tree is certified by an arborist or other qualified professional as severely diseased, high risk, or dying. Removal of a severely diseased, high risk, or dying specimen tree shall not require mitigation in accordance with Section 5.3.J(7), Replacement/Mitigation of Specimen Trees.

c. The specimen tree prevents all economically beneficial use of the lot.

(7) REPLACEMENT/MITIGATION OF SPECIMEN TREES

a. Each healthy specimen tree removed from an established tree protection zone shall be replaced with one or more replacement trees, measuring at least 20 percent of the caliper noted in Table 5.3.J(3): Specimen Trees, with a cumulative caliper equal to the specimen tree(s) removed. The replacement trees shall be planted within 12 months of the removal of the specimen tree.

b. Replacement trees shall be either planted on the parcel of land from which the specimen tree was removed, if sufficient space is available, or placed on nearby lands in accordance with Section 5.3.B(3), Alternative Landscaping.

c. The installation of replacement trees shall not be considered completed until an establishment period of one year from the date of planting has passed. The applicant shall provide financial surety for the installation of replacement trees in accordance with Section 5.3.D, Installation or Surety Required.

(8) INCENTIVES FOR PRESERVING EXISTING TREES

a. PURPOSE

The provisions in this section are intended to encourage the preservation of as many trees as practical on a development site.

b. ELIGIBILITY FOR INCENTIVES

Existing trees retained on a development site shall be eligible for incentives set forth in subsection c below, except the following trees are ineligible for incentives:

1. Trees required to be retained by this Ordinance;

2. Trees located within an open space set-aside;

3. Trees that do not meet the minimum size requirement for the particular incentive; and

4. Trees of any of the following species:

(a) Southern yellow Pine;

(b) Bradford Pear;

(c) Mulberry;

(d) Sweetgum; or

(e) Silver Maple.

c. ALLOWED INCENTIVES

1. A credit of one-and-one-quarter (1.25) multiplied by the aggregate caliper of existing trees to be retained shall be credited and applied towards the landscaping requirements, when the trees that are saved are at least five inches diameter breast height (DBH) and in healthy condition.

2. Up to a ten percent reduction in the number of required off-street parking spaces shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy trees with a DBH of eight inches or greater. The amount of reduction can be determined only after taking into consideration any unique site conditions and must be agreed upon by both the applicant and the Planning Director. Alternative paving materials (see Section 5.2.D(2)b, Surfacing) may be required by the Planning Director in cases where required parking areas encroach upon root zones.

(9) TREE PROTECTION DURING CONSTRUCTION

a. OWNER'S RESPONSIBILITY

During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

b. TREE PROTECTION FENCING

1. Specimen trees and other existing trees being used for credit towards landscaping requirements in accordance with Section 5.3.J(8), Incentives for Preserving Existing Trees, shall be fenced with a sturdy and visible fence before grading or other development activity begins. Fencing shall be erected no closer than one linear foot to the tree's drip line (the tree protection zone).

2. All tree protection measures are subject to inspection. Failure to have tree protection measures in place prior to the commencement of construction is a violation of this Ordinance and shall be subject to Article 8, Enforcement.

3. No construction, grading, equipment or material storage, or any other activity shall be allowed within the tree protection zone. Fencing shall be maintained until after the final site inspection.

c. ENCROACHMENTS INTO TREE PROTECTION ZONES

Encroachment into a tree protection zone shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be used:

1. Where compaction might occur due to construction traffic or materials delivery through a tree protection zone, the area must first be mulched with a minimum four-inch layer of wood chips. Equipment or materials storage shall not be allowed within a tree protection zone.

2. No fill shall be placed within a tree protection zone without adequate venting to allow air and water to reach the roots.

3. Trees located within a tree protection zone shall be protected from chemical contamination from liquids or other materials, including but not limited to paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils, or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

4. Except for driveway access points, sidewalks, curb, and gutter, no paving shall occur within five feet of a tree protection zone unless authorized in accordance with Section 5.3.B(3), Alternative Landscaping.

SECTION 5.4. OPEN SPACE SET-ASIDE STANDARDS

A. PURPOSE AND INTENT

Open space set-asides are intended for the use and enjoyment of a development's residents, employees, or users. Open space set-asides serve numerous purposes, including preserving natural resources, ensuring access to open areas and active recreation, reducing the heat island effect of developed areas, providing civic and meeting spaces, enhancing stormwater management, and providing other public health benefits.

B. APPLICABILITY

(1) Unless exempted in accordance with subsection (2) below, all new development shall comply with the standards in this section. The landowner shall be responsible for completing all required improvements within open space set-asides in accordance with this section.

(2) The following development is exempt from the standards in this section:

a. Development limited to an individual single-family detached or duplex dwelling on a single lot;

b. Uses in the Agircultural/Rural or Industrial use classification;

c. Utility uses

d. Development in the AG District;

e. Development consisting of fewer than 40 single-family or duplex dwellings, where all dwellings are located within one quarter (1/4) mile walking distance (measured along sidewalks or other pedestrian ways) of an existing public park having an area equal to or greater than the total open space set-aside area required by Table 5.4.D: Required Open Space Set-Asides, based on the size of the development, and where pedestrian access to the park from all lots in the development is provided by sidewalks or other pedestrian ways; and

f. Development that would result in total required minimum open space set-asides, including all phases of development, of 20 square feet or less (see Section 5.4.D, Amount of Open Space Set-Asides Required).

C. TIMING OF REVIEW

Review for compliance with the standards of this section shall occur during review of a development application for a conditional zoning (Section 2.5.A(3)), planned development (Section 2.5.A(4)), special use permit (Section 2.5.A(5)), site plan (Section 2.5.B(1)), minor subdivision (Section 2.5.B(2)), or major subdivision (Section 2.5.B(3)), as appropriate.

D. AMOUNT OF OPEN SPACE SET-ASIDES REQUIRED

Development subject to the standards in this section shall provide the minimum amounts of open space set-asides identified in Table 5.4.D: Required Open Space Set-Asides, based on the proposed use and the zoning district where the development is proposed.

Table 5.4.D: Required Open Space Set Asides

Use Classifications	Minimum Open Space Set-Aside Area (as percentage of development site area)		
	Residential Zoning Districts	Mixed-Use, Commercial, and Industrial Zoning Districts	Planned Development Zoning Districts
Residential	20%	10%	25%

Table 5.4.D: Required Open Space Set Asides

Use Classifications	Minimum Open Space Set-Aside Area (as percentage of development site area)		
	Residential Zoning Districts	Mixed-Use, Commercial, and Industrial Zoning Districts	Planned Development Zoning Districts
Civic/Institutional	10%	7.5%	10%
Commercial	10%	7.5%	10%
Industrial	5%	5%	10%

E. AREAS COUNTED AS OPEN SPACE SET-ASIDES

(1) The features and areas identified in Table 5.4.E: Open Space Set-Aside Features, shall be credited towards compliance with the minimum open space set-aside standards in subsection D above.

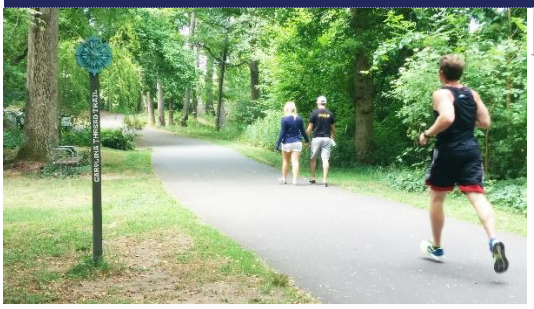
TABLE 5.4.E: Open Space Set-Aside Features

AREA COUNTED AS COMMON OPEN SPACE SET-ASIDES & DESIGN AND MAINTENANCE REQUIREMENTS	
	NATURAL FEATURES **Description:** Natural features (including lakes, ponds, rivers, streams, bays, shorelines, wetlands, drainageways, and other riparian areas), riparian buffers, flood hazard areas, steep slopes (15 percent or more), wildlife habitat, and woodland conservation areas. **Design and Maintenance Requirements:** Preservation of any existing natural features shall have highest priority for locating open space set-asides. Maintenance is limited to the minimum removal and avoidance of hazards, nuisances, and unhealthy conditions.
	ACTIVE RECREATIONAL AREAS **Description:** Land occupied by areas and facilities used for active recreational purposes, such as ballfields, playgrounds, tennis courts, pools, jogging trails, and community buildings and clubhouses, and land dedicated for parks. **Design and Maintenance Requirements:** No less than 35 percent of the total open space set-aside area within a residential development outside the CC zoning district shall consist of active recreational areas, except squares, forecourts, and plazas shall be counted toward this requirement in the MU-AC, MU-UC, or TOD districts. Active recreational areas shall be compact and contiguous, to the maximum extent practicable, unless used to link or continue existing or public open space lands.
	PASSIVE RECREATIONAL AREAS (INCLUDING PLANTINGS AND GARDENS) **Description:** Formally planned and regularly maintained open areas that provide passive recreation opportunities, including arranged plantings, gardens (including community gardens), gazebos, and similar structures. **Design and Maintenance Requirements:** Passive recreation shall have direct access to a public street or right-of-way.

TABLE 5.4.D: Open Space Set-Aside Features

AREA COUNTED AS COMMON OPEN SPACE SET-ASIDES & DESIGN AND MAINTENANCE REQUIREMENTS	
	SQUARES, FORECOURTS, AND PLAZAS **Description:** Squares, forecourts, plazas, and civic greens that provide active gathering places and opportunities to create special places. **Design and Maintenance Requirements:** Such features shall be at least 500 square feet in area. Such features shall have direct access to a street or sidewalk or pedestrian way that connects to a street and shall be designed to accommodate people sitting and gathering, incorporating benches, tables, fountains, or other similar amenities. Surrounding buildings shall be oriented toward the square, forecourt, or plaza when possible, and a connection shall be made to surrounding development. No less than 25 percent of the total open space set-aside area within the CC, MU-AC, MU-UC, or TOD districts shall be a square, forecourt, or plaza.
	REQUIRED LANDSCAPE AREAS **Description:** All areas occupied by required landscaping areas, tree protection areas, perimeter buffers, vegetative screening, and riparian buffers, and agricultural buffers, except landscaped area within vehicular use areas. **Design and Maintenance Requirements:** See Section 5.3, Landscaping and Buffer Standards.
	STORMWATER MANAGEMENT AREAS TREATED AS SITE AMENITIES **Description:** Up to 75 percent of the land area occupied by stormwater management facilities (including retention and detention ponds and other bioretention devices), when such features are treated as an open space site amenity; however, stormwater management facilities that are not treated as an open space site amenity may be counted toward up to 25 percent of the required open space set-asides in Agricultural and Residential zoning districts, and in the GC, I-1, and I-2 districts. **Design and Maintenance Requirements:** Stormwater management facilities treated as an open space site amenity shall support passive recreation uses by providing access, gentle slopes (less than 3:1), vegetative landscaping, and pedestrian elements such as paths and benches. Stormwater management facilities shall be subject to a maintenance agreement approved by the operating authority or agency having regulatory authority over the facility.

TABLE 5.4.D: Open Space Set-Aside Features

AREA COUNTED AS COMMON OPEN SPACE SET-ASIDES & DESIGN AND MAINTENANCE REQUIREMENTS	
	**PUBLIC ACCESS EASEMENTS WITH PATHS OR TRAILS** **Description:** Public access easements that combine utility easements with paths or trails that are available for passive recreational activities such as walking, running, and biking **Design and Maintenance Requirements:** Such public access easements shall include at least one improved access from a public street, sidewalk, or trail that includes signage designating the access point.
	GREEN/VEGETATED ROOFS **Description:** A roof or portion of a roof designed and used for vegetative growth. Green/vegetated roofs may be credited toward required open space set-asides, sustainable/green building standards, and sustainable/green building incentives. **Design and Maintenance Requirements:** Green roofs shall be accessible to the to the occupants and users of the building, as appropriate, during daylight hours.

(2) Open spaces required by any other section in this Ordinance, shall be credited toward compliance with the open space set-aside standards in Table 5.4.D: Required Open Space Set-Asides, if they are located and designed in accordance with the standards in this section.

F. AREAS NOT COUNTED AS OPEN SPACE SET-ASIDES

The following areas shall not be counted as open space set-asides:

(1) Private yards not subject to an open space or conservation easement;

(2) Street rights-of-way or private access easements, including sidewalks located within those rights-of-way or easements;

(3) Vehicular parking areas or lots (excluding the landscaped areas);

(4) Driveways for dwellings;

(5) Land covered by structures not designated for active recreational uses;

(6) Designated outdoor storage areas; and

(7) Stormwater management facilities and ponds, except as otherwise provided in Table 5.4.D .

G. DESIGN STANDARDS FOR OPEN SPACE SET-ASIDES

Land used as an open space set-aside shall comply with the following design standards:

(1) LOCATION

Open space shall be located to be readily accessible and useable by occupants and users of the development, as appropriate. In residential subdivisions, open space shall be provided within one quarter mile of all lots. Where possible, a portion of the open space set-aside should provide focal points for the development through prominent placement or easy visual access from streets.

(2) CONFIGURATION

a. Open space shall conform with all open space and greenway plans.

b. Open space set-asides shall be compact and contiguous unless a different configuration is needed to continue an existing trail or accommodate preservation of natural or historical resources.

c. If the development site is adjacent to existing or planned public trails, parks, or other public open space area land, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, connect, and enlarge the trail, park, or other public land.

d. Pedestrian access to open space set-asides shall be provided from sidewalks or other pedestrian ways within the development.

(3) ORIENTATION OF ADJACENT BUILDINGS

To the maximum extent possible, buildings adjacent to the required open space set-asides shall have at least one entrance facing the open space set-aside.

(4) PRIORITIZATION OF OPEN SPACE SET-ASIDE

To the maximum extent practicable, and in accordance with Section 5.4.E, Areas Counted as Open Space Set-Asides, open space set-asides shall be located and organized to include, protect, and enhance as many of the following open areas and features as possible, in the following general order of priority:

a. Natural features such as riparian areas, riparian buffers, shorelines, flood hazard areas, floodplains, wetlands, steep slopes, and wildlife habitat and woodland areas;

b. Water features such as rivers, bays, lakes, creeks, canals, natural ponds, wetlands, and retention and detention ponds;

c. Protected trees and other mature trees;

d. Parks and trails (regardless of public or private ownership);

e. Lands with active agricultural uses and activities;

f. Gathering places such as squares, forecourts, and plazas; and

g. Areas that accommodate multiple compatible open space set-aside uses rather than a single use.

(5) DEVELOPMENT IN OPEN SPACE SET-ASIDES

a. Development within open space set-asides shall be limited to that appropriate to the purposes of the type(s) of open space set-asides. Where appropriate, such development may include, but is not limited to, walking, jogging, and biking paths or trails; benches or other seating areas; meeting areas; tables, shelters, grills, trash receptacles, and other picnic facilities; docks and other facilities for fishing; environmental education guides and exhibits; historic interpretive signage; gazebos and other decorative structures; fountains or other water features; play structures for children; gardens or seasonal planting areas; pools; athletic fields and courts; and associated clubhouses.

b. Active recreational area improvements shall equal a total minimum financial investment of 200% of the pre-development tax value for the amount of dedicated land from the parcel from which the open space is being dedicated as required. The specified contribution shall be determined by the tax value of the parcel at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. Tax deferrals of any kind shall not be used in the calculation of the fees.

H. OWNERSHIP, MANAGEMENT, AND MAINTENANCE OF OPEN SPACE SET-ASIDES

(1) Open space set-asides required by this Ordinance shall be managed and maintained in compliance with an open space provision and maintenance plan and all applicable provisions of City and state law. To the extent not inconsistent with state law, such open space set-asides shall be managed and maintained as permanent open space through one or more of the following options:

a. Conveyance of open space set-aside areas to a property owners' or homeowners' association that holds the land in common ownership and will be responsible for managing and maintaining the land for its intended open space purposes, in perpetuity;

b. Establishment of easements on those parts of individually-owned lots including open space set-aside areas that require the areas to be managed consistent with the land's intended open space purposes and prohibit any inconsistent future development, in perpetuity;

c. Conveyance of open space set-aside areas to a third party beneficiary such as an environmental, historical, or civic organization, or a government entity, that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended open space purposes, in perpetuity; or

d. If public stormwater management facilities are treated as site amenities, through stormwater management easements.

(2) All options involving private ownership of open space set-aside areas shall include deed restrictions, covenants, or other legal instruments that ensure continued use of the land for its intended open space set-aside purposes, in perpetuity, and provide for the continued and effective management, operation, and maintenance of the land and facilities.

(3) Responsibility for managing and maintaining open space set-asides rests with the owner of the land of the open space set-asides. Failure to maintain open space set-asides in accordance with this section and the development approval or permit shall be a violation of this Ordinance.

SECTION 5.5. FENCE AND WALL STANDARDS

A. PURPOSE AND INTENT

The intent of this section is to regulate the location, height, and appearance of fences and walls to:

(1) Maintain visual harmony within neighborhoods and throughout the City;

(2) Protect adjacent lands from the indiscriminate placement and unsightliness of fences and walls;

(3) Ensure the safety, security, and privacy of land; and

(4) Ensure that fences and walls are subject to timely maintenance, as needed.

B. APPLICABILITY

(1) GENERAL

The standards of this section apply to any construction, reconstruction, or replacement of fences or walls, unless exempted by subsection (2) below.

(2) EXEMPTIONS

a. The following fences and walls are exempt from the standards of this section:

1. Fences and walls required for support of a principal or accessory structure;

2. Fences and barricades around construction sites;

3. Fences for tree protection (temporary and permanent);

4. Landscaping berms installed without fences;

5. Noise attenuation walls installed by a public entities along a public roadway;

6. Fences and walls necessary for soil erosion and control;

7. Fences at parks and schools, where such uses are operated by public entities; and

8. Specialized fences used for protecting livestock or for other similar agricultural functions if part of a use in the Agricultural/Rural use classification.

b. Retaining wall are exempt from all standards in this section except the standards in Section 5.5.K, Retaining Walls.

C. TIMING OF REVIEW

Review for compliance with the standards in this section shall occur during review of applications for a site plan (Section 2.5.B(1)), a zoning clearance permit (Section 2.5.C(1)), and a certificate of compliance (Section 2.5.C(2)).

D. GENERAL STANDARDS

(1) GENERAL

a. Fences and walls shall be located outside of the public right-of-way.

b. Fences and walls are allowed on the property line between two or more parcels of land held in private ownership.

c. Fences and walls may be located within any required yard.

d. Nothing in this section shall be construed to prevent the installation of temporary fencing to protect existing trees, limit sedimentation, or control erosion.

(2) IN UTILITY EASEMENTS

Fences located within utility easements shall receive written authorization from the easement holder or the City, as appropriate. The City shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access utility easements or facilities.

(3) BLOCKING NATURAL DRAINAGE FLOW

Where a stormwater management permit is required, fences and walls shall not block natural drainage flow (see Section 5.10, Stormwater Management Standards).

(4) BLOCKING ACCESS TO FIRE HYDRANTS

Fences and walls shall not be located where they would prevent immediate view of, or access to, fire hydrants or other firefighting water supply devices, in accordance with the Fire Code.

(5) BLOCKING ACCESS TO WINDOWS OR DOORS

Fences and walls shall not block required access to a building from a window or door.

(6) WITHIN REQUIRED LANDSCAPING AREAS

Fences and walls in required landscaping areas shall comply with Section 5.3, Landscaping and Buffer Standards.

(7) WITHIN SIGHT TRIANGLES

Fences and walls are subject to requirements for sight triangles in accordance with the LDSM.

(8) MAINTENANCE

Fences and walls and associated landscaping shall be maintained in good repair and in a safe condition. Maintenance of fences and walls shall include, but not be limited to, the replacement of missing, decayed, or broken structural or decorative elements and the repair of deteriorated or damaged fence materials, including, but not limited to, weathered surfaces visible from the public right-of-way, sagging sections, and posts that lean more than ten degrees from vertical.

E. HEIGHT STANDARDS

(1) GENERAL

a. Unless otherwise stated in Section 5.5.B(2) below, fences and walls shall comply with the following:

1. Within a required front yard, build-to-zone, or corner lot side yard, the maximum allowable fence and wall height is four feet.

2. Within a required front yard, build-to-zone, or corner lot side yard where within the line of sight or the site triangle, the maximum allowable fence and wall height is two feet.

3. Within any other required yard or in a corner side yard behind the front plan of the principal building, the maximum allowable fence and wall height is six feet.

b. Fence or wall height may be increased through the security plan exemption in accordance with Section 5.5.L, Security Exemption Plan.

(2) EXCEPTIONS

a. Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility shall be exempt from the height standards in this section.

b. Fences of up to 10 feet in height are allowed in front, side, and rear yards at a majority utility facility, wireless communication support structure, or government office. Heights may be increased further through an approved security exemption plan (see Section 5.5.L, Security Exemption Plan).

c. Fences and walls up to eight feet in height are allowed for community gardens and urban farming.

d. Fences and walls up to eight feet in height are allowed to screen service and loading areas, if the fence or wall complies with the setback requirements for the associated building, except as required

in conjunction with a conditinal rezonign or other approval or permit issued by a City board of commission.

(3) MEASUREMENT OF HEIGHT

Fence or wall height shall be measured as follows:

a. Fence or wall height shall be measured from the top of the fence or wall, defined as the highest point, not including supporting columns or posts, above grade to grade on the side of the fence or wall where the grade is the lowest, but excluding the height of any retaining wall directly beneath the fence or wall.

b. Supporting columns or posts may be taller than the maximum allowed height for the fence or wall, if they do not extend more than 18 inches above the top of the fence or wall.

F. MATERIALS

(1) GENERAL

Unless otherwise specified in Section 5.5.F(2) below, fences and walls shall be constructed of any one or more of the following materials:

a. Masonry, concrete, or stone;

b. Ornamental iron, except that fencing shall not incorporate spiked tops within a residential zone without approval of a security exemption plan in accordance with Section 5.5.L, Security Exemption Plan;

c. Painted wood, pressure treated wood, or rot-resistant wood such as cedar, cypress, or teak;

d. Composite materials designed to appear as wood, metal, or masonry;

e. Metal (wrought iron, welded steel and/or electro-statically plated black aluminum);

f. Vinyl;

g. Walls clad with substrate material intended to support living vegetation; and

h. Any material demonstrated by the applicant to have a similar or equal appearance and durability as a material listed in this Subsection.

(2) MIXED-USE CENTERS AND CORRIDORS

Fences and walls in the MU-AC, CC, MU-UC, and MU-SC districts that are visible from the public right-of-way shall be constructed only of one or a combination of the following materials:

a. Native/regional stone or imitation stone of equivalent appearance;

b. Brick;

c. Stucco on concrete block or poured concrete (only when a brick or stone coping is provided);

d. Painted wood;

e. Metal (wrought iron, welded steel and/or electro-statically plated black aluminum); or

f. Black vinyl-coated chain link fences, only for schools, recreational facilities, child care centers, and similar outdoor uses.

(3) PROHIBITED MATERIALS

The following fence types or materials are prohibited:

a. Barbed and/or razor wire, unless approved as part of a security exemption plan in accordance with Section 5.5.L, Security Exemption Plan, or on land with an agricultural use, or on land used for installation and operation of high-voltage equipment at substations for electrical generation, transmission, and distribution in connection with providing public utility service in the City by a regulated public utility;

b. Fences constructed of chicken wire, corrugated metal, fabric materials, fiberboard, garage door panels, plywood, rolled plastic, sheet metal, debris, junk, or waste materials, unless such materials are recycled and reprocessed for marketing to the general public as building materials designed to resemble new building materials (e.g., picket fencing made from recycled plastic and fiber); and

c. Above-ground fences that carry electrical current, except as used for the purposes of enclosing livestock in the AG or R1 districts (this shall not prohibit below-ground electrical fences intended for the keeping of pets).

G. PERIMETER FENCES AND WALLS ABUTTING STREET RIGHT-OF-WAY

Except in the HI zoning district, fences or walls on a parcel of land that are visible from and located within 15 feet of a street right-of-way shall:

(1) Be of a uniform style;

(2) Be constructed of brick, stone, concrete (when covered with stucco or similar finish), vinyl, or vertical wooden boards; and

(3) Include breaks, offsets of at least one foot, access points, or other design details in the fence or wall plane at least every 200 feet. (see Figure 5.5.G: Fence and Wall Offsets.)

Figure 5.5.G: Fence and Wall Offsets

H. APPEARANCE

(1) FINISHED SIDE TO OUTSIDE

Unless it is used to enclose livestock, wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (e.g., one side of a fence has visible support framing, such as vertical posts and horizontal rails, and the other—the more "finished" side—does not; or one side of a wall has a textured surface and the other—the more "finished" side—does not), then the more "finished" side of the fence shall face the exterior of the lot rather than the interior of the lot. (see Figure 5.5.H: Fence with Finished Side Out.)

Figure 5.5.H: Fence with Finished Side Out

(2) FENCE AND WALL LANDSCAPING

Except in the HI zoning district, all fences and walls exceeding four feet in height, if located within 15 feet of a street right-of-way, shall be supplemented with landscape screening to soften the visual impact of the fence in accordance with subsections a and b below. In single-family residential zones, this requirement applies only to fences located within 15 feet of the right-of-way of a designated collector or higher classification street.

a. SHRUBS REQUIRED

At least one evergreen shrub shall be installed for every five linear feet of fence or wall, on the side of the fence or wall facing the public street right-of-way. Shrubs may be installed in a staggered, clustered, grouped, or linear fashion.

b. SUBSTITUTION OF SHADE TREES

Substitution of shade or ornamental trees for shrubs required by subsection a above, is allowed at the rate of one tree for three shrubs. Such trees shall meet the planting standards in Section 5.3, Landscaping and Buffer Standards.

I. FENCE AND WALL CONSTRUCTION

Fences and walls shall comply with all applicable Building Code requirements.

J. GATES

All gates opening onto a sidewalk or public right-of-way shall be self-closing and self-latching, except where the gate is part of a stormwater best management practice (BMP) for which the use of such gates is impractical.

K. RETAINING WALLS

Retaining walls shall comply with the following standards:

(1) A retaining wall may be permitted to support steep slopes but should not exceed six feet in height from the finished grade, except:

a. If part of a structure's foundation wall;

b. If part of stormwater management facilities;

c. Where necessary to support existing road cuts;

d. Where necessary to construct a driveway from the street to a garage or parking area; and

e. Where otherwise expressly allowed by this Ordinance.

(2) In all exceptions identified in subsection (1) above, except stormwater management facilities, a retaining wall shall not exceed ten feet in height.

(3) Retaining walls greater than six feet in height shall comply with the minimum building setbacks in the zoning district where they are located.

(4) Retaining walls higher than six feet should be separated from any other retaining wall by a minimum of five horizontal feet. Terraces created between retaining walls shall be permanently landscaped or revegetated with native vegetation.

(5) Retaining walls shall be faced with stone, brick, or earth-colored materials similar to the surrounding natural landscape.

(6) All retaining walls shall comply with the Building Code, except that when any provision of this section conflicts with any provision in the Building Code, the more restrictive provision applies.

L. SECURITY EXEMPTION PLAN

(1) A landowner in need of heightened security may submit to the Planning Director a security exemption plan proposing a fence or wall taller than what is permitted by this section or proposing the use of barbed and/or razor wire or electric wire atop a fence or wall for security reasons.

(2) The Planning Director may approve or approve with conditions, the security exemption plan, upon finding all of the following:

a. NEED FOR SAFETY FOR SECURITY REASONS

The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land, or represent a significant hazard to public safety without:

1. A taller fence or wall;
2. An electric fence; or
3. Use of barbed and/or razor wire atop a fence or wall.

b. NO ADVERSE EFFECT

The proposed fence or wall will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent lands or the surrounding area as a whole.

(3) If the Planning Director finds the applicant fails to demonstrate compliance with subsection (2) above, the security plan shall be disapproved.

SECTION 5.6. EXTERIOR LIGHTING STANDARDS

A. PURPOSE AND INTENT

The purpose and intent of this section is to regulate exterior lighting to:

(1) Ensure all exterior lighting is designed and installed to maintain adequate lighting levels on site;

(2) Assure that excessive light spillage and glare are not directed at adjacent property, neighboring areas, and motorists;

(3) Curtail light pollution, reduce skyglow, and preserve the nighttime environment for the enjoyment of residents and visitors;

(4) Conserve energy and resources to the greatest extent possible; and

(5) Provide security for persons and property.

B. APPLICABILITY

(1) GENERAL

Unless exempted by subsection (2) below, the standards of this section apply to:

a. All new development; and

b. Any individual expansion or alteration of a building if the expansion increases the building's floor area by 50 percent or more, or the alteration involves 50 percent or more of the building's floor area (including interior alterations).

(2) EXEMPTIONS

The following types of lighting are exempted from the standards of this section:

a. Lighting exempt under state or federal law;

b. FAA-mandated lighting associated with a utility tower or airport;

c. Lighting for public monuments and statuary;

d. Lighting solely for signage (see Section 5.9, Sign Standards);

e. Lighting for outdoor recreational uses such as ball diamonds, football fields, soccer fields, other playing fields, tennis courts, and similar uses, provided that:

1. Light poles are not more than 30 feet in height, except at ball diamonds, football fields, and other playing fields, where they can be taller;

2. Maximum illumination from such lighting at the property line is not brighter than 2.0 foot-candles; and

3. Such lighting is extinguished no later than 11:00 p.m., except to complete an activity that is in progress prior to 11:00 p.m.

f. Temporary lighting for circuses, fairs, carnivals, and theatrical and other performance areas, provided such lighting is discontinued upon completion of the performance;

g. Temporary lighting of construction sites, provided such lighting is discontinued upon completion of the construction activity;

h. Temporary lighting for emergency situations, provided such lighting is discontinued upon abatement of the emergency situation;

i. Security lighting controlled and activated by motion sensor devices for a duration of 15 minutes or less;

j. Underwater lighting in swimming pools, fountains, and other water features;

k. Holiday or festive lighting, provided such lighting does not create unsafe glare on street rights-of-way; and

l. Outdoor lighting fixtures that do not comply with provisions of this section on July 1, 2022, provided they are brought into compliance with this section when they become unrepairable.

(3) TIMING OF REVIEW

Review for compliance with the standards in this section shall occur during review of applications for site plans (Section 2.5.B(1)), zoning clearance permits (Section 2.5.C(1)), and certificates of compliance (Section 2.5.C(2)).

C. GENERAL STANDARDS

(1) HOURS OF ILLUMINATION

Uses in the Civic/Institutional, Commercial, and Industrial use classifications as well as mixed-use development that are adjacent to existing residential development shall extinguish all exterior lighting—except lighting necessary for recreation, security, or emergency purposes—by 11:00 P.M. or within one hour of closing, whichever occurs first. For the purposes of this paragraph, lighting "necessary for security or emergency purposes" shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, illumination of exterior walkways, or illumination of outdoor storage areas. Lighting activated by motion sensor devices is strongly encouraged.

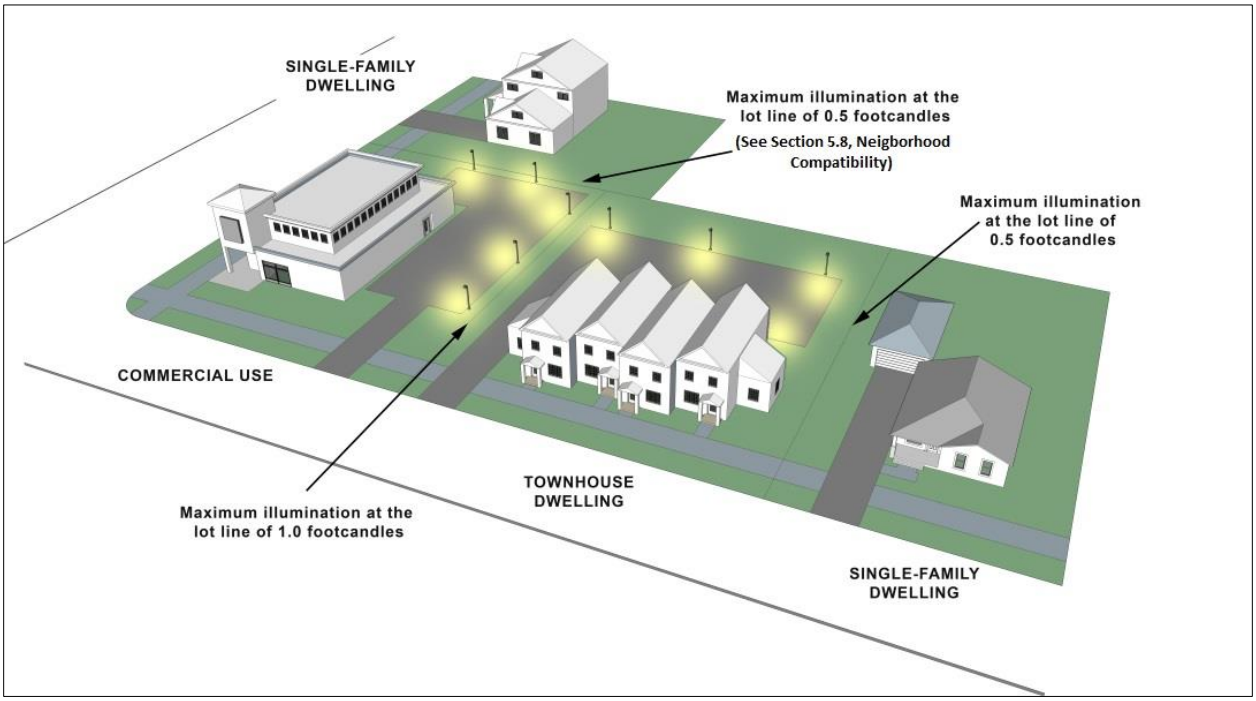
(2) MAXIMUM ILLUMINATION LEVELS

Except for street lighting, all exterior lighting and indoor lighting visible from outside shall be designed and located so that the maximum illumination measured in foot candles at ground level at a lot line (see Figure 5.6.C(2)b: Maximum Illumination Levels) shall not exceed the standards in Table 5.6.C(2)a: Maximum Illumination Levels.

Table 5.6.C(2)a: Maximum Illumination Levels

Type of Use Abutting Lot Line	Maximum Illumination Level at Lot Line (Foot Candles)
Single-family detached dwellings, duplexes, manufactured homes, or vacant land in the R2, R4, R6, or R7 district	0.5
All other uses in the Residential use classification and vacant land in the R8 or R18 district	1.0
Uses in the Commercial or Civic/Institutional use classifications (except Transportation uses and Utilities uses)], and vacant land in a mixed-use district or the O-I, GC, or LI Districts	2.0
Transportation uses, Utilities uses, uses in the Industrial use classification, and vacant land in the HI District	3.0

Figure 5.6.C(2)b: Maximum Illumination Levels



(3) MAXIMUM HEIGHT

Except for athletic field lighting fixtures, which shall not exceed 95 feet in height, and street lighting, the height of exterior light fixtures, whether mounted on poles, walls, or by other means, shall comply with the standards in Table 5.6.C(3): Maximum Height for Exterior Lighting.

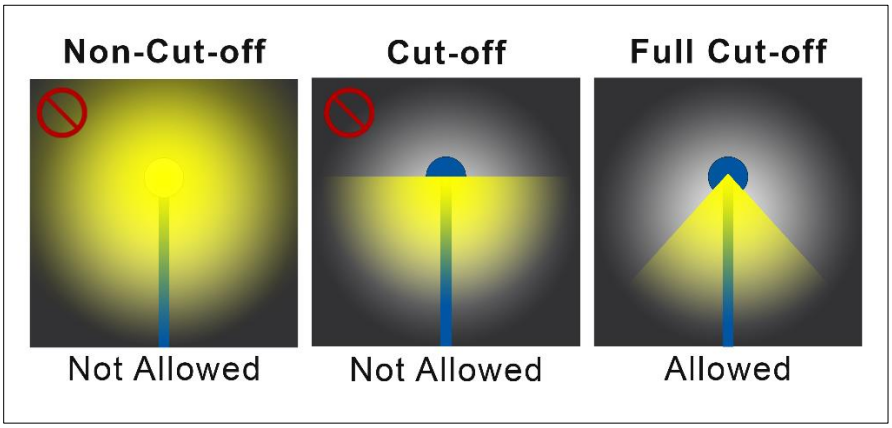
Table 5.6.C(3): Maximum Height for Exterior Lighting

Zoning District	Maximum Height (Feet)
Agricultural and Residential Districts	15
Mixed-Use, Commercial, and Industrial Districts	25
Within 100 feet of a Residential District	15

(4) FULL CUT-OFF FIXTURES REQUIRED

All exterior luminaries, including security lighting, shall be full cut-off fixtures that are directed downward, consistent with Figure 5.6.C(4): Full Cut-off Fixtures. In no case shall lighting be directed above a horizontal plane through the lighting fixture.

Figure 5.6.C(4): Full Cut-off Fixtures



(5) ENERGY EFFICIENT FIXTURES AND ELEMENTS REQUIRED

a. All outdoor light fixtures and light elements must be energy efficient, as defined in subsection b below. The Planning Director may allow exceptions to this requirement on finding the applicant demonstrates any of the following:

1. An energy efficient fixture or light element is not reasonably available that meets the necessary functional requirements;

2. Available energy efficient fixtures or light elements are not cost-effective over the life of the product, taking energy cost savings into account; or

3. The use of an energy efficient fixture or light element is unreasonable or impractical for other reasons.

b. For purposes of this subsection, an energy efficient light fixture or light element must meet one of the following criteria:

1. Is in the upper 25 percent of efficiency for all similar products as designated by the U.S. Department of Energy's Federal Energy Management Program; or

2. Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label.

D. STANDARDS FOR SPECIFIC USES AND SITE FEATURES

(1) OFF-STREET PARKING AREAS

a. Maintained average horizontal illuminance values in parking areas during times when the parking area is in use shall not exceed 4.0 foot-candles of illumination.

b. The ratio of maximum-to-minimum horizontal illuminance within the parking area shall not exceed 10:1.

(2) SPORTS OR PERFORMANCE VENUE

Lighting fixtures for outdoor sports areas, athletic fields, and performance areas shall be equipped with a glare control package (e.g., louvers, shields, or similar devices) and aimed so that their beams are directed and fall within the primary playing or performance area.

(3) PEDESTRIAN AREA LIGHTING

a. Light fixtures for sidewalks, walkways, trails, and bicycle paths, outside of vehicular surface areas (parking lots), except for pedestrian bollard lamps, shall comply with the following standards:

1. Provide at least 1.2 foot-candles of illumination, but not exceed 2.0 foot-candles;

2. Have a maximum height of 15 feet; and

3. Be placed a maximum of 100 feet apart.

b. Any pedestrian bollard lamps shall be mounted no higher than four feet above grade and shall not exceed 900 lumens for any single lamp. (See Figure 5.6.D(3)b: Examples of Pedestrian Bollard Lamps).

Figure 5.6.D(3)b: Examples of Pedestrian Bollard Lamps

(4) WALL PACK LIGHTS

Wall packs on the exterior of the building shall be fully shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward and shall not exceed 1,600 lumens for any single fixture.

(5) CANOPY

Areas under a canopy shall be designed so as not to create glare off-site. Acceptable methods to address this include one or both of the following:

a. A recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy that provides a full cutoff or fully-shielded light distribution; or

b. A surface mounted fixture incorporating a flat glass that provides a full cutoff or fully-shielded light distribution.

(6) DECORATIVE AND LANDSCAPE LIGHTING

Outdoor light fixtures used for decorative effects shall comply with the following standards:

a. Decorative lighting intended to enhance the appearance of a building and/or landscaping shall cast all light downward (rather than upward) against the building surface or onto a landscape feature.

b. Decorative lighting fixtures shall not exceed 1,600 lumens for any single fixture.

E. STREET LIGHTS

(1) Street lights shall comply with the street lighting design requirements in the LDSM and with the standards in this section.

(2) Except in the CC District, street lights shall be located inside full cut-off fixtures.

(3) Street lights shall be mounted on non-corrosive poles served by underground wiring.

(4) The light structure and light color of street lights in an individual subdivision or development shall be consistent throughout the subdivision or development.

F. PROHIBITED LIGHTING

The following exterior lighting is prohibited:

(1) Light fixtures that imitate an official highway or traffic control light or sign;

(2) Light fixtures that have a flashing or intermittent pattern of illumination, except signage with an intermittent pattern of illumination allowed in accordance with Section 5.9, Sign Standards;

(3) Searchlights, except when used by federal, state or local authorities, or where they are used to illuminate alleys, parking garages, and working (maintenance) areas, so long as they are shielded and aimed so that they do not result in lighting on any adjacent lot or public right-of-way exceeding 2.0 foot candles; and

(4) Light fixtures that direct lighting in an upwards direction, with the purpose or effect of illuminating buildings or monument features.

G. ILLUMINATION MEASUREMENT

(1) Illumination measurements shall be made at the lot line of the land upon which light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the land. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground.

(2) Illumination measurements shall be taken with a light meter that has been calibrated within two years.

H. EXEMPTIONS FOR SAFETY REASONS

(1) Government facilities, like property or rights-of-way, parks, public safety, and other development may submit a security plan to the Planning Director proposing exterior lighting that deviates from the standards in this section. The Planning Director shall approve or approve with conditions the security plan and its proposed deviation from the standards, upon finding that:

a. The proposed deviation from the standards is necessary for the adequate protection of the subject land, development, or the public;

b. The condition, location, or use of the land, or the history of activity in the area, indicates the property or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding property without the additional lighting; and

c. The proposed deviation from the standards is the minimum required, and will not have a significant adverse effect on neighboring lands.

(2) If the Planning Director finds the applicant fails to demonstrate compliance with subsection (1) above, the security plan shall be denied.

SECTION 5.7. FORM AND DESIGN STANDARDS

A. INTENT

The purpose and intent of these form and design standards are to:

(1) Establish a minimum level of development quality for multifamily residential, commercial, and industrial buildings;

(2) Promote greater compatibility between uses;

(3) Enhance walkability and the pedestrian realm; and

(4) Provide landowners, developers, architects, builders, business owners, and others with a clear and equitable set of parameters for developing land.

B. APPLICABILITY

The standards of this section shall apply to:

(1) MULTIFAMILY BUILDINGS

a. GENERAL

1. All new multifamily, townhouse, and three-family development, unless expressly stated otherwise in the specific multifamily form and design standards (see Section 5.7.D); and

2. Any expansion of an existing multifamily building (unless expressly stated otherwise in the specific multifamily form and design standards (see Section 5.7.D), if the expansion increases the building's gross floor area by 50 percent or more. The standards in this section shall apply only to the building expansion.

b. EXEMPTIONS

The standards in this section shall not apply to any dwellings located above a nonresidential use.

(2) NONRESIDENTIAL AND MIXED-USE BUILDINGS

a. All new development of uses in the Commercial use classification or mixed-use development (see Section 5.7.E); and

b. Any expansion of an existing [building used for a use in the Commercial use classification or mixed-use development, if the expansion increases the building's gross floor area by 50 percent or more (see Section 5.7.E).

(3) LARGE RETAIL ESTABLISHMENT BUILDINGS

a. All new large retail establishment development (see Section 5.7.F); and

b. Any expansion of an existing large retail establishment building, if the expansion increases the building's gross floor area by 50 percent or more (see Section 5.7.F). The stanards in this section shall apply only to the building expansion.

(4) INDUSTRIAL AND WAREHOUSE BUILDINGS

a. All new development of uses in the following use categories: Industrial Services; Manufacturing, Assembly, or Fabrication; and Warehousing, Freight Movement, and Wholesale Sales (see Section 5.7.G); and

b. Any expansion of an existing building housing a use in the Industrial Services; Manufacturing, Assembly, or Fabrication; or Warehousing, Freight Movement, and Wholesale Sales use category, if the expansion increases the building's gross floor area by 50 percent or more. The standards in this section shall apply only to the building expansion.

C. TIMING OF REVIEW

Review for compliance with the standards of this section shall occur during review of a development application for a conditional zoning (Section 2.5.A(3)), planned development (Section 2.5.A(4)), special use permit (Section 2.5.A(5)), site plan (Section 2.5.B(1)), minor subdivision (Section 2.5.B(2)), or major subdivision (Section 2.5.B(3)), as appropriate.

D. MULTIFAMILY DESIGN STANDARDS

Development subject to this section shall comply with the following standards.

(1) SITE ACCESS

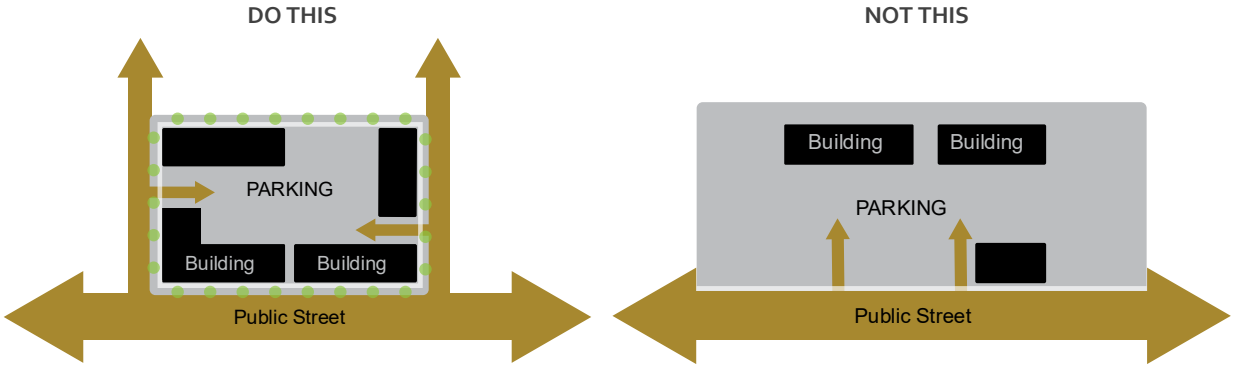
New multifamily, townhouse, or three-family development with 100 or more dwelling units shall have at least one secondary point of vehicular access to or from the site to ensure emergency vehicle access.

(2) LOCATION OF OFF-STREET PARKING

For all multifamily, townhouse, and three-family buildings:

a. No more than 20 percent of off-street surface parking may be located between a building and the street it faces unless the parking bays are screened from view from the street by another building. Interior structures within a multi-building development served by a central, private street are exempted from this requirement. (see Figure 5.7.D(2): Multifamily Parking Location).

Figure 5.7.D(2): Multifamily Parking Location



b. Guest and overflow parking within a development subject to these standards shall be located to the side or rear of the building containing the units, to the maximum extent practicable.

c. Off-street surface parking located beside a building shall not occupy more than 25 percent of the parcel's street frontage. Associated driving areas shall be included as part of such off-street surface parking.

(3) BUILDING ORIENTATION AND CONFIGURATION

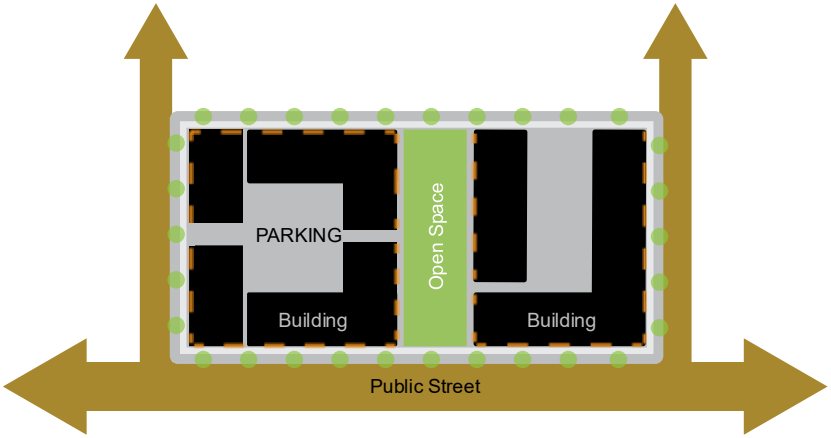
a. SINGLE-BUILDING DEVELOPMENT

The primary entrance of a multifamily, townhouse, or three-family single-building development shall face the street.

b. MULTI-BUILDING DEVELOPMENT

Multifamily, townhouse, and three-family developments with more than one building shall be configured so that primary building entrances are oriented towards external streets, internal streets, and open space areas (like courtyards and plazas). Buildings may be oriented towards off-street parking lots only in cases where no other practical alternative exists. (see Figure 5.7.D(3): Multi-Building Orientation)

Figure 5.7.D(3): Multi-Building Orientation



(4) MAXIMUM BUILDING LENGTH

The maximum length of any multifamily, townhouse, or three-family building shall be in accordance with Table 5.7.D(4): Maximum Building Length for Multifamily, Townhouse, or Three-Family Building, regardless of the number of units.

Table 5.7.D(4): Maximum Building Length for Multifamily, Townhouse, or Three-Family Building

Zoning Districts	Maximum Building Length (Ft.)
R7, R8, R18, MU-N	150
MU-AC, MU-UC, MU-SC, ROD, GC	250

(5) BUILDING FAÇADES

For all multifamily buildings:

a. Façades of all buildings subject to these standards that face a street shall incorporate wall offsets, in the form of projections or recesses in the façade plane, spaced no more than 50 feet apart (see Figure 5.7.D(5)a: Changes in Building Façade).

Figure 5.7.D(5)a: Changes in Building Façade

b. Wall offsets shall have a minimum depth of two foot.

c. In addition to wall offsets, front façades of multifamily buildings shall provide a minimum of three of the following design features (see Figure 5.7.D(5)c: Examples of Front Façades):

1. One or more dormer windows or cupolas;
2. A recessed entrance;
3. A covered porch;
4. Pillars, posts, or columns next to the doorway;
5. One or more bay windows projecting at least twelve inches from the façade plane;
6. Eaves projecting at least six inches from the façade plane;
7. Raised corniced parapets over the entrance door;
8. Multiple windows with a minimum four-inch-wide trim;
9. Integrated planters that incorporate landscaped areas or places for sitting; or
10. Roof form and line changes consistent with the façade offsets.

Figure 5.7.D(5)c: Examples of Front Façades

(6) ROOFS

For all multifamily buildings:

a. Sloped roofs on buildings over 100 feet in length shall include two or more different sloping roof planes, each with a minimum pitch between 3:12 and 12:12.

b. Flat roofs shall be concealed by parapet walls that extend at least three feet above the roof level and have three-dimensional cornice treatments that project at least eight inches outward from the parapet façade plane.

c. Alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features.

d. All roof-based mechanical equipment, as well as vents, pipes, antennas, satellite dishes, and other roof penetrations (except chimneys), shall be located on the rear elevations or otherwise be configured and screened (if necessary) to have a minimal visual impact as seen from the street.

(7) BUILDING FAÇADE FENESTRATION/TRANSPARENCY

At least 20 percent of the street-facing façade area of the ground-level floor of any multifamily, townhouse, or three-family building (as measured from the grade to the underside of the eave, top of the parapet, or the story line denoting the second floor) shall be occupied by windows or doorways.

(8) MATERIALS

For all multifamily, townhouse, and three-family buildings:

a. Primary façade materials shall not change at outside corners, but extend along any side façade that is visible from a street. In all instances the extension shall be a minimum of 20 feet, except materials may change where side or rear wings meet the main body of the structure.

b. Material changes shall occur along a horizontal line or where two forms meet. It is acceptable, however, that change of materials occur as accents around windows, doors, cornices, at corners, or as a repetitive pattern.

(9) GARAGE STANDARDS

For all multifamily buildings:

a. Detached garages or carports shall be located to the side or rear of the building(s) containing the dwellings. A parking structure is exempt from this requirement. (see Figure 5.7.D(9): Garage Placement.)

Figure 5.7.D(9): Garage Placement

1. Detached garage located to the side or rear.
2. Freestanding garage visible from the public street shall be oriented perpendicular to the street

b. Freestanding garages or carports visible from public streets outside the development shall be oriented perpendicular to the street, or the façade facing the street shall be configured to comply with the required wall offsets and façade design features in Section 5.7.D(5), Building Façades.

c. The exterior materials, design features, and roof form of a detached garage or carport shall be the same as the building it serves.

(10) UTILITIES AND SERVICES

a. All utility lines shall be located underground in accordance with the LDSM.

b. All new multifamily developments or attached single-family developments shall provide a container for the collection of recyclable materials, subject to approval by the Director of Engineering, and screened from view from ground level on adjacent lots and rights-of-way.

E. NONRESIDENTIAL AND MIXED-USE FORM AND DESIGN STANDARDS

Development subject to this section shall comply with the following standards.

(1) BUILDING ORIENTATION

a. FRONT STREETS

The front façade of all buildings, as defined by the primary entrance, shall be oriented on and front onto a street, a courtyard, or plaza. See Figure 5.7.E(1)a: Example of Building Orientation.

Figure 5.7.E(1)a: Example of Building Orientation

b. SINGLE BUILDING DEVELOPMENT

1. To the maximum extent practicable, all single-building developments shall be configured with the long axis of the building parallel to the street it fronts, or be consistent with existing development patterns, rather than being sited at unconventional angles.

2. New large single-use retail buildings shall comply with the standards in Section 5.7.F, Large Retail Establishment Form and Design Standards.

c. MULTI-BUILDING DEVELOPMENT

1. The primary entrances of buildings shall be oriented towards a street along the perimeter of a development, towards streets or driveways interior to the development, and towards any abutting open space areas, courtyards, or plazas.

2. Developments totaling 120,000 or more square feet of floor area that are composed of multiple buildings shall be configured to accomplish any one or combination of the following:

(a) Break up the site into a series of smaller blocks defined by on-site streets, vehicle accessways, pedestrian walkways, or other circulation routes, as appropriate;

(b) Frame the corner of an abutting street intersection or entry point to the development;

(c) Frame and enclose a "Main Street" pedestrian or vehicle access corridor within the development site, if appropriate; and

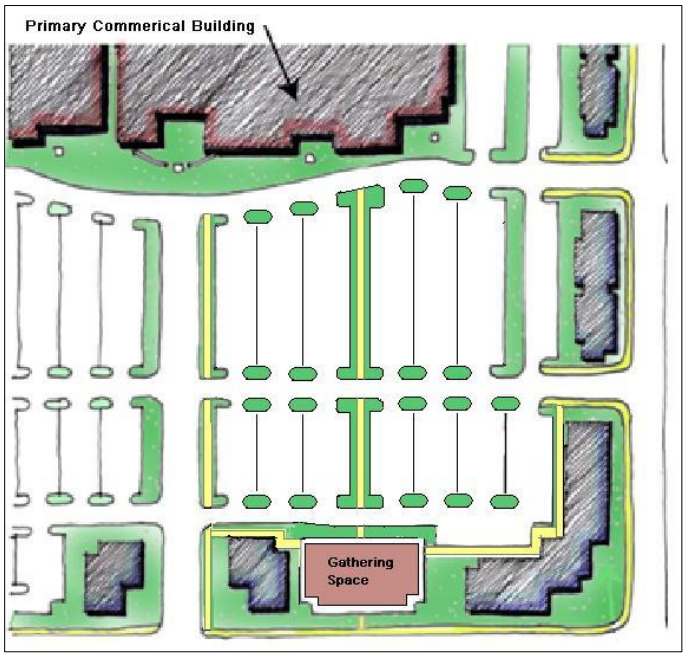
(d) Frame and enclose outdoor dining or gathering spaces for pedestrians between buildings.

(2) OUTPARCEL DEVELOPMENT

a. To the maximum extent practicable, outparcels and their buildings shall be configured and located to define street edges, development entry points, and spaces for gathering or seating between buildings.

b. Spaces between buildings on outparcels shall be configured with small scale pedestrian amenities such as plazas, seating areas, pedestrian connections, and gathering spaces. (see Figure 5.7.E(2): Outparcel Development.)

Figure 5.7.E(2): Outparcel Development



(3) FAÇADE ARTICULATION

a. OFFSETS REQUIRED

Street-facing front building façades that are greater than 60 feet wide shall be articulated with wall offsets (e.g., projections or recesses in the façade plane) that are at least two feet deep, at least ten feet wide, and spaced no more than 50 feet apart (see Figure 5.7.E(3)a: Example of Front Façade Offsets).

Figure 5.7.E(3)a: Example of Front Façade Offsets

b. OFFSET ALTERNATIVES

The following techniques may be used (alone or in combination with other techniques and/or wall offsets) as an alternative to the required front facade offsets (see Figure 5.7.E(3)b: Façade Massing):

1. Changes in façade color or material every 50 feet;
2. Columns or pilasters that are at least eight inches deep and at least eight inches wide, and have a height equal to at least 80 percent of the façade's height; or
3. Roofline changes that vertically align with a corresponding wall offset or change in façade color or material, including changes in roof planes and changes in the height of a parapet wall (such as extending the top of pilasters above the top of the parapet wall).

Figure 5.7.E(3)b: Façade Massing

PILASTERS

COLOR/MATERIAL CHANGES

c. SIDE FAÇADES

The street-facing side façades of buildings shall be articulated with the same façade details as provided on the building's front façade.

d. OUTBUILDINGS

Outbuildings located in front of other buildings within the same development shall include a consistent level of façade articulation and architectural detail on all sides of the building, as well as exterior materials and colors that are compatible with the primary building in the development.

(4) FAÇADE MATERIALS

a. Predominant exterior building materials shall be high quality materials, including but not limited to brick, wood, stucco, sandstone, or native stone, or tinted, textured, or concrete masonry units.

b. The use of aluminum siding, vinyl siding, corrugated metal siding, or other metal cladding is prohibited on any façade visible from a street right-of-way. Nothing shall limit the use of high-quality, decorative metal (e.g., brass, copper, steel) as a building accent material.

c. Primary façade materials shall not change at outside corners, but extend along any side façade visible from a street right-of-way. In all instances the extension shall be a minimum of 20 feet, except materials may change where side or rear wings meet the main body of the structure. Where two or more materials are proposed to be combined on a façade, the heavier elements shall be located below the lighter elements (i.e., brick shall be located below stucco or wood). The heavier material may be used as a detail on the corner of a building or along cornices or windows.

d. Façade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

e. Building trim and accent areas may feature brighter colors, including primary colors.

f. No more than 50 percent of exterior building materials shall include smooth-faced concrete block, smooth-faced tilt-up concrete panels, or pre-fabriacted steel panels.

(5) BUILDING FAÇADE FENESTRATION/TRANSPARENCY

Unless more restrictive requirements are established elsewhere in this Ordinance, at least 40 percent of the street-facing façade area of the ground-level floor of buildings (as measured from the grade to the underside of the eave, top of the parapet, or the story line denoting the second floor) shall be occupied by transparent windows or doorways.

(6) ROOFS

a. Sloped roofs on principal buildings over 100 feet in length shall include two or more different sloping roof planes, each with a minimum pitch between 3:12 and 12:12.

b. Flat roofs on principal buildings shall be concealed by parapet walls that extend at least three feet above the roof level and have three-dimensional cornice treatments that project at least eight inches outward from the parapet façade plane.

c. All roof-based mechanical equipment, as well as vents, pipes, antennas, satellite dishes, and other roof penetrations (except chimneys), shall be located on the rear elevations or otherwise be configured, to the maximum extent practicable, to have a minimal visual impact as seen from the street.

(7) LOCATION OF OFF-STREET PARKING

Development shall be configured to locate all required surface off-street parking to the side or rear of the front façade of the building. Buildings of two or more stories may locate one bay of off-street parking between the primary building entrance and the street the building faces unless prohibited by other provisions in this Ordinance.

(8) LOADING, SERVICE, AND EQUIPMENT AREAS

a. Loading, service, and equipment areas shall be located in a manner that minimizes their visibility from off-site areas, to the maximum extent practicable.

b. Outdoor storage areas shall be fully screened from adjacent streets and single-family dwellings.

c. Loading, service, and equipment areas that are associated with an outparcel building shall be screened through the use of structural elements and similar materials attached to and integrated with the building.

F. LARGE RETAIL ESTABLISHMENT FORM AND DESIGN STANDARDS

(1) GENERAL

In addition to the general nonresidential and mixed-use form and design standards in Section 5.7.E, large retail establishments (see Article 10: Definitions) shall also comply with the following standards. If there is a conflict between these standards and those in Section 5.7.E, these standards control. (see Figure 5.7.F(1): Examples of Large Retail Establishments.)

Figure 5.7.F(1): Examples of Large Retail Establishments

(2) BUILDING ENTRANCES

a. Buildings shall have clearly defined, highly visible customer entrances featuring no less than four of the following:

1. Canopies or porticos above the entrance;

2. Roof overhangs above the entrance;

3. Entry recesses or projections;

4. Arcades that are physically integrated with the entrance;

5. Raised corniced parapets above the entrance;

6. Gabled roof forms or arches above the entrance;

7. Outdoor patios or plazas next to the entrance;

8. Display windows that are directly next to the entrance;

9. Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above or next to the entrance; or

10. Integral planters or wing walls that incorporate landscaped areas or seating areas.

b. All portions of buildings designed to appear as customer entrances shall be functional customer entrances.

(3) FAÇADES AND MASSING

a. To reduce their perceived mass and scale, buildings shall incorporate two or more of the following design elements on each façade facing a street:

1. Variations in roof form and parapet heights;

2. Pronounced wall offsets that are at least two feet deep;

3. Distinct changes in texture and color of wall surfaces;

4. Ground level arcades and second floor galleries or balconies;

5. Protected and recessed entries; and

6. Vertical accents or focal points.

b. Side building walls that do not face a street and exceed 30 feet in length shall have façade-articulating elements such as columns and/or changes in plane, texture, or masonry pattern. (see Figure 5.7.F(3): Large Retail Building Entrances and Massing.)

Figure 5.7.F(3): Large Retail Building Entrances and Massing

(4) BUILDING FAÇADE FENESTRATION/TRANSPARENCY

Unless more restrictive requirements are established elsewhere in this Ordinance, at least 25 percent of the street-facing façade area of the ground-level floor of buildings (as measured from the grade to the underside of the eave, top of the parapet, or the story line denoting the second floor) shall be occupied by transparent windows or doorways.

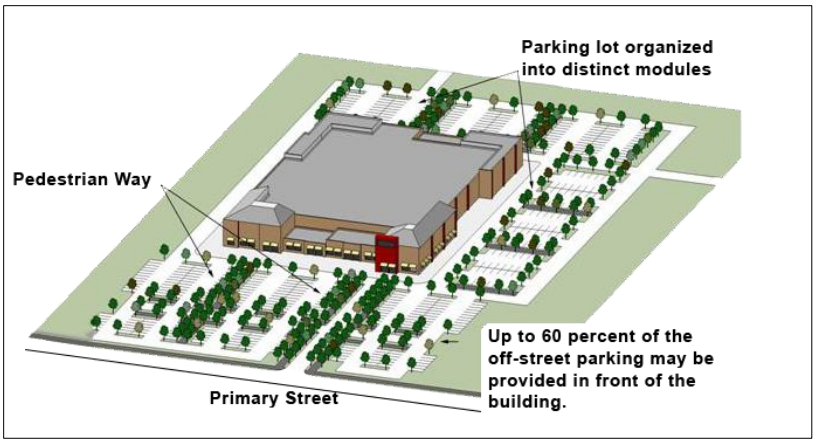
(5) OFF-STREET PARKING LOCATION STANDARDS

a. Unless more restrictive requirements are established elsewhere in this Ordinance, within areas designated as Suburban Activity 1 and Suburban Activity 2 on the Future Land Use and Character Map, up to 60 percent of the total off-street surface parking provided may be located between the front façade of the building and the street it faces. (see Figure 5.7.F(5): Large Retail Parking Lot with Over 200 Spaces.)

b. Outside of Suburban Activity 1 and Suburban Activity 2 areas, all parking is strongly encouraged to be located to the side or rear of the building; however, up to 15 percent of the total off-street surface parking provided may be located between the front façade of the building and the street it faces unless more restrictive requirements are established elsewhere in this Ordinance.

c. Off-street surface parking lots with 200 or more spaces shall be organized into a series of parking bays surrounded by buildings, landscaping, or accessways designed to appear as streets. (see Figure 5.7.F(5): Large Retail Parking Lot with Over 200 Spaces.)

Figure 5.7.F(5): Large Retail Parking Lot with Over 200 Spaces



(6) TRANSIT STOPS

Each development shall provide an off-street transit bus stop for customers and employees if the development is located on an established or planned public transit route.

G. INDUSTRIAL AND WAREHOUSE DESIGN STANDARDS

Development subject to this section shall comply with the following standards.

(1) BUILDING ORIENTATION

a. GENERAL

1. Development shall orient the building façade containing its primary patron entrance to face the street from which the building derives its street address.

2. Buildings shall be located and configured to conceal operations and loading areas from off-site views, to the maximum extent practicable.

b. ACCESSORY USES

Accessory uses and structures shall not front a street and shall be located in a manner that minimizes their impacts on adjacent development.

(2) FAÇADE ARTICULATION

Each street-facing building façade shall be horizontally and/or vertically articulated to avoid long, blank wall planes, by meeting at least two of the following standards:

a. WALL PLANE HORIZONTAL ARTICULATION

Each façade greater than 100 feet in width shall be articulated with wall offsets (e.g., projections or recesses in the façade plane), changes in façade color or material, or similar features that visually interrupt the wall plane horizontally such that the width of the uninterrupted façade does not exceed 60 feet (see Figure 5.7.G(2): Example of Facade Articulation for Industrial Building).

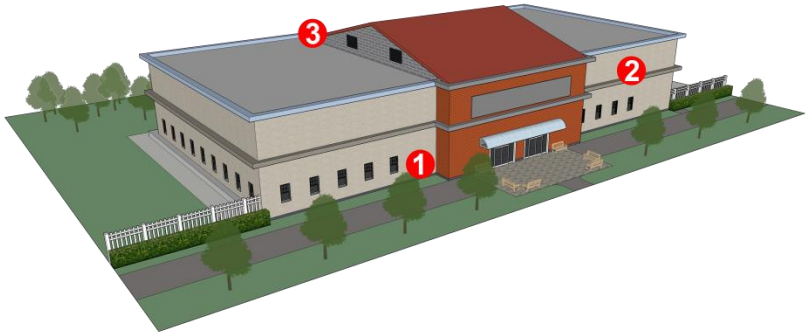
b. VERTICAL ARTICULATION

Each façade greater than 30 feet in height shall incorporate a change in the wall surface plane or in façade color or material that visually interrupts the wall plane vertically such that the height of the uninterrupted façade does not exceed 30 feet.

c. ROOF LINE VARIATION

The façade shall include variations in roof planes and/or in the height of a parapet wall at least every 100 feet of roofline length along the façade.

Figure 5.7.G(2): Example of Façade Articulation for Industrial Building



1. **Each façade greater than 100 feet in width shall be articulated with wall offsets (e.g., projections or recesses in the façade plane), changes in façade color or material, or similar features that visually interrupt the wall plane horizontally such that the width of the uninterrupted façade does not exceed 60 feet.**
2. **Each façade greater than 30 feet in height shall incorporate a change in the wall surface plane or in façade color or material that visually interrupts the wall plane vertically such that the height of the uninterrupted façade does not exceed 30 feet.**
3. **The façade shall include variations in roof planes and/or in the height of a parapet wall at least every 100 feet of roofline length along the façade.**

(3) ENTRANCE

a. Each principal building shall have clearly defined, highly visible, primary entrances for occupants and patrons that incorporate at least two of the following design features to emphasize the importance of the entrance:

1. Canopy or portico;
2. Roof overhang;

3. Horizontal recess or projection;
4. Arcade or arch;
5. Peaked roof form;
6. Outside patio;
7. Display window;
8. Architectural tile work or moldings integrated into the design of the building façade;
9. Integrated planters or wing walls that incorporate landscaped area or seating areas; or
10. Similar architectural features not found on the remainder of the building façade.

b. Street-facing façades of the ground level floor shall not include overhead doors, sliding glass doors, removable panels, or similar type of doors.

(4) BUILDING FAÇADE MATERIALS

The use of corrugated metal siding or any other similar metal siding, unfinished or untreated tilt-up concrete panels, or standard single- or double-tee concrete systems as a primary exterior façade material shall be limited to those portions of rear and side building façades that are not visible from the public right-of-way or an adjacent use in the Residential, Civic/Institutional, or Commercial use classifications.

(5) LOCATION OF LOADING AND SERVICE AREAS

Loading and service areas shall be separated from patron parking, pedestrian areas, and main drive aisles, and shall be located a minimum of 100 feet from any abutting residential use.

(6) OFF-STREET PARKING LOCATION

No more than 50 percent of the off-street parking spaces may be located in surface parking lots between the front building façade and the street it faces.

H. MECHANICAL EQUIPMENT AND SOLID WASTE STORAGE AREA STANDARDS

(1) MECHANICAL EQUIPMENT

All mechanical equipment shall be screened from view with an opaque screen.

(2) SOLID WASTE STORAGE AREA

a. Solid waste dumpsters or other large containers for solid waste storage shall be confined in an enclosed area that is screened on all sides. A solid waste enclosure, large enough to confine solid waste items and dumpster(s), shall be of solid opaque construction, six-foot high with latching gates providing access. The applicant shall indicate on the site plan the choice of materials and color so that the Administrator can determine that they are consistent and compatible with those of the principal building(s) on the site.

b. Enclosures shall be constructed of durable, weather-proof, permanent materials such as concrete or stone block, metal, vinyl, wood, or similar material. The applicant shall ensure that the choice of materials and color are consistent and compatible with those of the principal building(s) on the site.

c. Fences of chain link, sheet metal and barbed and razor wilre, with or without slats of wood or metal inserted, shall not be considered as sufficient materials to screen outdoor storage areas or operations.

d. Solid waste dumpsters or other large containers for solid waste storage shall have a lid to minimize the potential contamination of stormwater runoff.

SECTION 5.8. NEIGHBORHOOD COMPATIBILITY

A. INTENT

The purpose of these neighborhood compatibility standards is to provide a proper transition and ensure compatibility between existing single-family detached, single-family attached, and duplex dwellings, as well as vacant lands in the single-family residential zoning districts, and other more intense forms of development. More specifically, it is the intent of these standards to:

(1) Protect the character of existing neighborhoods consisting of primarily single-family detached, single-family attached, or duplex dwellings from potentially adverse impacts resulting from more intense and incompatible adjacent forms of development;

(2) Use development form treatments as alternatives to large vegetative buffers; and

(3) Establish and maintain vibrant pedestrian-oriented areas where multiple uses can operate close to one another.

B. APPLICABILITY

(1) GENERAL

a. Unless exempted by subsection (2) below, the standards in this section apply to:

1. New multifamily, nonresidential, and mixed-use] development (see subsection c below) when located on land adjacent to, or across a street or alley from a single-family residential lot (see subsection c below).

2. Any expansion or alteration of an existing multifamily, nonresidential, and mixed-use]development located on land abutting or across a local street or alley from a single-family residential lot (see subsection c below), where the expansion increases the development's floor area by 50 percent or more, or the alteration involves 50 percent or more of the development's floor area.

b. For the purposes of this section:

1. Single-family residential lots include:

(a) Lots where an existing single-family detached or duplex dwelling is located; and

(b) Undeveloped lots in a single-family residential zoning district;

2. Single-family residential zoning districts are the R1, R2, R4, R6, and R7 districts;

3. Multifamily development includes the following:

(a) Duplexes;

(b) Live-work units;

(c) Multifamily dwellings;

(d) Townhouses; and

(e) Triplexes.

4. Nonresidential development includes all uses that are not in the Residential use category; and

5. Mixed-use development includes buildings containing both dwellings as principal uses and nonresidential principal uses.

(2) EXEMPTIONS

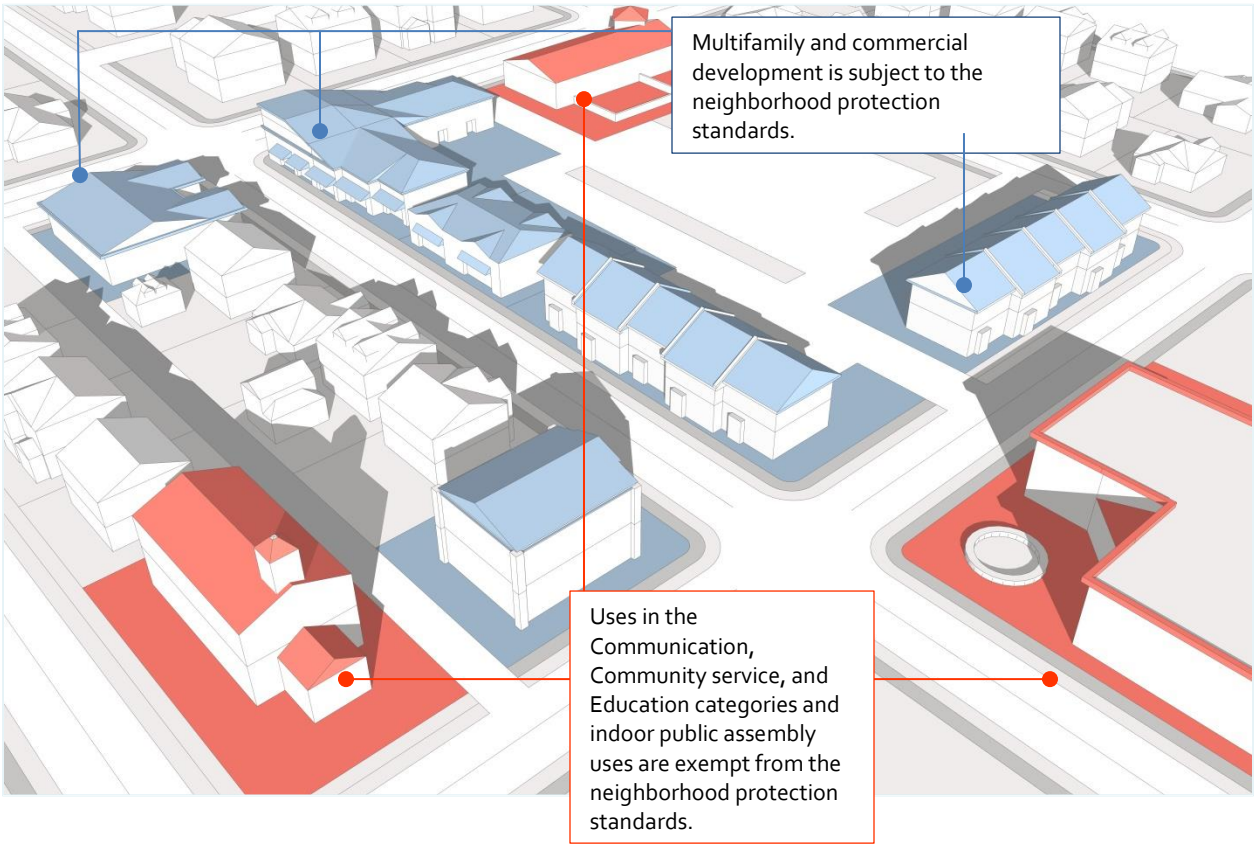
The following are exempt from these standards:

a. Multifamily, nonresidential, and mixed-use development adjacent to a single-family detached or duplex dwelling located on a lot within the Downtown, Commercial, and Mixed Use zoning district;

b. Multifamily, nonresidential, and mixed-use development located on lots separated from single-family residential lots by a street having four or more lanes of travel; and

c. Uses in the Communication, Community Service, and Education categories and the indoor public assembly use.

Figure 5.8.B: Applicability of Neighborhood Protection Standards



(3) TIMING OF REVIEW

Review for compliance with the standards of this section shall occur during review of a development application for a conditional zoning (Section 2.5.A(3)), planned development (Section 2.5.A(4)), special use permit (Section 2.5.A(5)), site plan (Section 2.5.B(1)), minor subdivision (Section 2.5.B(2)), or major subdivision (Section 2.5.B(3)), as appropriate.

(4) CONFLICT

In the case of conflict between these neighborhood compatibility standards and other standards in this Ordinance, these neighborhood compatibility standards shall control.

C. NEIGHBORHOOD COMPATIBILITY STANDARDS

Development subject to this section shall comply with the following standards:

(1) BUILDING HEIGHT AND SETBACKS

a. Building setbacks shall be consistent with other buildings on the block face and across the street to maintain a consistent plane or edge of buildings along public frontages. Building setbacks shall vary no more than 15 percent of the average of the buildings setbacks on the same block face.

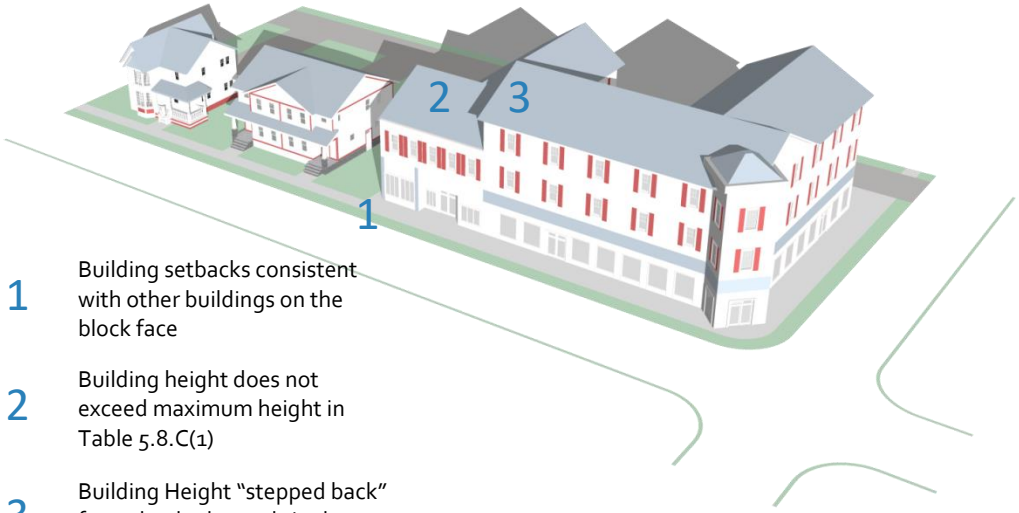
b. Building height shall not exceed the maximum height established in Table 5.8.C(1): Maximum Height in Neighborhood Compatibility Areas.

Table 5.8.C(1): Maximum Height in Neighborhood Compatibility Areas

Distance from Single-Family Home	Maximum Height
Less than 100 feet	3 Stories
100-150 feet	4 Stories

c. Buildings over three stories in height shall be broken up into modules or wings with the smaller and shorter portions of the structure located adjacent to single-family residential lots. See Figure 5.8.C(1): Building Height Modulation.

Figure 5.8.C(1): Building Height Modulation



1 Building setbacks consistent with other buildings on the block face

2 Building height does not exceed maximum height in Table 5.8.C(1)

3 Building Height "stepped back" from the duplex and single-family dwelling

(2) BUILDING ORIENTATION

Buildings shall be oriented towards the street from which they derive their street address.

(3) BUILDING FORM

a. Buildings shall:

1. Use a similar roof type to adjacent single-family detached or duplex dwellings in terms of slope and arrangement to prevent abrupt changes in roof form;

2. If within 100 feet of a single-family residential lot, maintain a pitched roof;

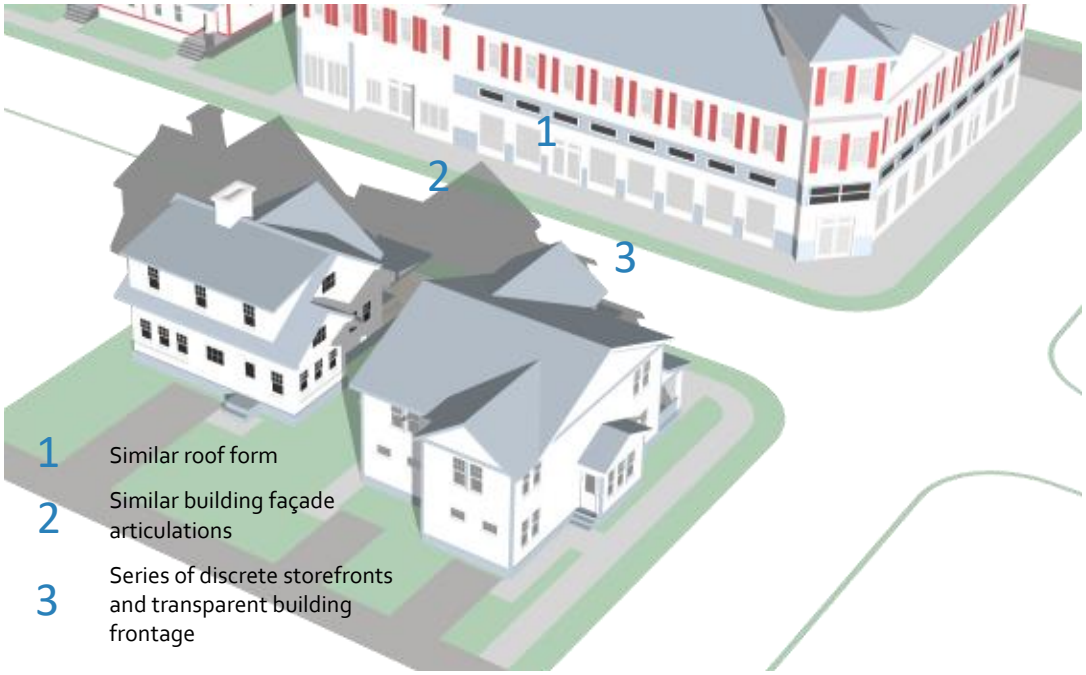
3. Configure all roof-mounted equipment to avoid or minimize its view from adjacent streets and single-family residential lots;

4. Use similarly sized and patterned wall offsets and other building articulations found on adjacent single-family detached and duplex dwellings; and

5. Orient porches, balconies, and outdoor activity areas away from adjacent single-family residential lots.

b. Retail commercial building façades that face single-family residential lots shall be designed to appear as a series of discrete storefronts, with no single storefront occupying more than 50 percent of the total façade width of the building. See Figure 5.8.C(3): Appropriate Building Form.

Figure 5.8.C(3): Appropriate Building Form



(4) FAÇADES

Façades facing single-family residential lots shall comply with the following façade standards:

a. MATERIALS

1. Materials and material configurations shall be consistent with those commonly used on adjacent single-family detached, single-family attached, or duplex dwellings.

2. Plywood, concrete block, and corrugated metal are prohibited as exterior materials.

3. Split-face masonry unit and vinyl siding shall not exceed 25 percent of a building façade.

b. TRANSPARENCY

The façade shall comply with the standards in Table 5.8.C(4)b: Transparency Standards.

Table 5.8.C(4)b: Transparency Standards

Building Story	Minimum Façade Area Percentage to be Transparent (percent) [1] [2] [3]
First Floor	40
Second Floor	15
Third Floor or Higher	10

NOTES:

[1] The façade area shall be measured from the grade to the underside of the eaves, or from story line to story line on upper building stories.

[2] Façades abutting sidewalks, plazas, gathering areas, or other pedestrian areas shall incorporate transparent features.

[3] The first two feet of façade area closest to the grade are not required to be transparent and shall be excluded from the façade area calculation.

(5) MULTI-BUILDING PLACEMENT

For a multi-building development that includes varying use and/or development intensities in different buildings, the development shall locate buildings with the least intense use and/or development nearest to abutting single-family residential lots.

(6) OFF-STREET PARKING

a. The total amount of off-street parking shall not exceed 1.1 times the required minimum specified in Section 5.2.E(1), Minimum and Maximum Off-street Vehicular Parking Spaces, and may be reduced through an alternative parking plan (see Section 5.2.E(2)a, Alternative Parking Plan) that demonstrates such reduction will not have an adverse impact on the adjacent single-family residential lots.

b. When required, off-street parking shall be established in one or more of the following locations, listed in priority order:

1. Adjacent to off-street parking lots serving nonresidential development on abutting lots;

2. Adjacent to lot lines abutting nonresidential development;

3. Adjacent to lot lines abutting mixed-use development;

4. Behind the building;

5. Within a lot's corner side yard;

6. In front of the building; or

7. Adjacent to lot lines abutting single-family residential lots.

c. Off-street parking areas shall be located at least 12 feet from single-family residential lots.

d. Any off-street surface parking areas located adjacent to a single-family residential lot shall be screened by an eight foot perimeter buffer in accordance with Section 5.3.H, Parking Lot Landscaping.

e. The façade of any parking structure facing an adjacent single-family residential lot shall be configured to appear as an articulated or landscaped building wall, to soften its visual impact.

(7) OTHER SITE FEATURES

a. LOADING, SERVICE, AND REFUSE COLLECTION AREAS

Loading, service, and refuse collection areas shall be:

1. Located behind or to the sides of buildings away from adjacent single-family residential lots, screened with walls and/or landscaping, and provided with access that is integrated with parking areas and the vehicular circulation network;
2. Screened from view of single-family residential lots, to the maximum extent practicable; or
3. Incorporated into the overall site so that the impacts of these functions are fully contained within an enclosure or are otherwise out of view from adjacent single-family residential lots.

b. DRIVE-THROUGH FACILITIES AND OUTDOOR DINING

1. In no instance shall a drive-through, pick-up window, or outdoor dining facility be located on a building façade that faces a single-family residential lot.
2. In no instance shall a drive-through or pick-up window be located within 100 feet of a single-family residential lot.
3. Order boxes associated with a drive-through or pick-up window shall be at least 200 feet from single-family residential lots.

c. EXTERIOR LIGHTING

Exterior lighting shall have a maximum height of 14 feet and illumination that does not exceed 0.5 foot candles at the lot line, if within 100 feet of a single-family residential lot. Exterior lighting shall have a maximum height of 18 feet if within between 100 and 150 feet of such lot or lands (and illumination that does not exceed 0.5 foot candles at the lot line).

d. SIGNAGE STANDARDS

1. To the maximum extent practicable, signage shall be located a minimum of 100 feet from lot lines shared with a single-family residential lot.
2. Within 100 feet of lot lines shared with a single-family residential lot, the maximum sign copy area for signs shall be reduced by 25 percent.
3. Signage within 20 feet of a lot line shared with a single-family residential lot shall be limited to directional or incidental signage.

e. OPEN SPACE SET-ASIDES

1. Required open space set-asides shall be located between a proposed development and adjacent single-family residential lots, to the maximum extent practicable.
2. Outdoor recreation features such as swimming pools, tennis courts, playgrounds, and similar features shall be at least 75 feet from any lot line shared with a single-family residential lot.

f. NATURAL FEATURES

Natural features such as existing vegetation, streams, wetlands, and other such features shall be used as transitions, where possible. Where such natural features are used as transitions, pedestrian connections to adjoining uses are strongly encouraged.

g. UTILITIES

All utilities serving individual buildings or developments shall be located underground.

(8) OPERATIONAL STANDARDS

Development subject to these standards shall:

a. Limit the hours of outdoor dining or other outdoor activities, where permitted, within 150 feet of single-family residential lots to only between the hours of 7:00 a.m. and 8:00 p.m.;

b. Limit trash collection or other service functions to only between the hours of 7:00 a.m. and 7:00 p.m.; and

c. Extinguish amplified music, singing, or other forms of noise audible at lot lines shared with single-family residential lots after 10:00 p.m. Sunday through Thursday nights, and after 12:00 a.m. Friday and Saturday nights.

SECTION 5.9. SIGN STANDARDS

A. PURPOSE AND INTENT

The purpose and intent of these sign regulations are to:

(1) Encourage the effective use of signs as a means of communication in the City while preserving the rights of free speech under the First Amendment to the United States Constitution;

(2) Maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;

(3) Improve pedestrian and traffic safety;

(4) Minimize the possible adverse effect of signs on nearby public and private property; and

(5) Enable the fair and consistent enforcement of these sign regulations.

B. APPLICABILITY

(1) GENERALLY

Unless exempted by subsection (2) below, a sign may be constructed, erected, placed, established, painted, created, or maintained in the City only in conformance with the standards and requirements of this section.

(2) EXEMPT SIGNS

The following are exempt from the standards and requirements of this section:

a. Signs erected by a local, state, or federal government body or agency;

b. Signs required by local, state, or federal law;

c. Signs within a structure that are not legible from the ground level of the exterior of the structure; and

d. Fence wraps displaying signage when affixed to perimeter fencing at a construction site in accordance with N.C.G.S. § 160D-908.

C. GENERAL STANDARDS

(1) SIGNAGE PLAN REQUIRED

a. An applicant proposing to erect one or more signs requiring a sign permit on a lot shall submit a Signage Plan with the sign permit application that contains the following:

1. An accurate plot plan of the lot or parcel at a scale that reasonably shows all relevant information, as determined by the Planning Director;

2. Location of buildings, parking lots, driveways, and landscaped areas on the lot where signage is proposed to be erected;

3. Proposed maximum total sign area and maximum area for individual signs, proposed sign heights, and a calculation of the number of freestanding signs allowed on the lot(s) included in the plan under this Ordinance; and

4. The proposed location of each present and future sign, regardless of whether it requires a sign permit. Sign locations shown on site plans will not be considered or approved in lieu of review and approval of sign locations identified on a Signage Plan in accordance with this section.

b. An application for a planned development, special use permit, or site plan for a combined development or other multi-tenant nonresidential or mixed-use development shall include a master signage plan that shows the allocation of the various signage allowed on the site among the tenants and the proposed general location and size of signage on the site.

c. Permanent signs proposed as part of a planned development or special use shall be shown on the PD Master Plan or development plan submitted with the application for the planned development or special use permit, respectively. Sign locations shown on a PD Master Plan or development plan shall be in accordance with an approved Signage Plan in accordance with subsection a above.

(2) RULES FOR MEASUREMENT AND COMPUTATION

Sign height shall be measured in accordance with Section 9.3.A(11)b, Sign Height, and sign area shall be computed in accordance with Section 9.3.A(11)a, Sign Area.

(3) CONSTRUCTION AND MAINTENANCE

a. All signs shall be constructed and maintained to retain sound structural condition, and shall comply with all applicable provisions of the Building Code, all applicable electrical codes, and this Ordinance.

b. Except for banners, flags, temporary signs, and window signs, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

c. Repainting of a sign or replacement of sign face (i.e., with business ownership change) shall be considered maintenance or repair and shall not require a permit.

(4) PROHIBITED SIGNS

The following signs are prohibited:

a. Signs that approximate official highway signs, warning signs, or regulatory devices;

b. Signs displaying blinking, flashing or intermittent lights, animation, and moving parts, except as where changeable copy is allowed by a provision of this section (Section 5.9);

c. Portable signs;

d. Feather signs;

e. "Wrap-around" signs or other continuous wall signs that extend around building corners or radii;

f. Off-premise signs, except as specifically permitted in this section;

g. New outdoor advertising signs;

h. Facsimile signs;

i. Signs placed within a required sight triangle, public or private easement, or required stream buffer;

j. Signs attached to utility poles, telephone poles, trees, parking meters, bridges and overpasses, rocks, other signs, benches, or refuse containers;

k. Fence wraps displaying signage, except at a construction site in accordance with N.C.G.S. § 160A-381(j);

l. Roof signs;

m. Pavement markings for purposes other than traffic control;

n. Signs placed within or extending into the right-of-way of City or state maintained streets and roads, except as specifically permitted in this section (Section 5.9) or by state law;

o. Signs that contain language or pictures obscene to the general public in accordance with N.C.G.S. § 14-190.1;

p. Signs that advertise an activity or business no longer conducted on the property on which the sign is located;

q. Indirect illumination, such as floodlights, erected in such a manner as to cause glare that impairs driver vision on streets or roadways or that causes a nuisance to adjoining property;

r. Signs that obstruct fire escapes, windows, doors, or other openings used as means of egress or as required legal ventilation; and

s. Signs containing or consisting of pennants, ribbons, streamers, festoon lighting, balloons or inflatable components, or spinners.

D. SIGNS THAT DO NOT REQUIRE A SIGN PERMIT

No sign permit is required to construct, erect place, establish, paint, create, or maintain the signs in subsections (1) through (15) below, provided the sign complies with the standards set forth for the sign below. Signs identified in subsections (1) through (15) below, are not counted toward the total sign area limitations in Section 5.9.E(1), Number, Area, and height Standards, as long as they comply with the standards set forth for the sign below, and with all other applicable standards in this section (Section 5.9).

(1) A sign cut or etched into masonry, bronze, or similar material integral to the exterior of a building.

(2) A pedestrian oriented sign that has a maximum sign area of six square feet and is attached to a building at a height of eight feet or less within ten feet of a building entrance containing only the business name or address. No more than one such sign is allowed per building entrance.

(3) A pedestrian oriented sign that has a maximum sign area of two square feet and is attached to a building at a height of eight feet or less within ten feet of a building entrance, and that contains only the business name or address. No more than three such signs are allowed per building entrance.

(4) A temporary sign that has a maximum sign area of 30 square feet placed on the premises of a use in the Public, Civic, and Institutional use classification. Such signs shall not be illuminated, shall be limited to one such sign per street frontage, and may remain in place for no more than 14 days in any 60-day period.

(5) A temporary sign having a maximum sign area of 32 square feet placed on a lot where construction activities are being performed. Such signs shall not be illuminated, shall be limited to one such sign per street frontage, and must be removed with seven days after the completion of construction activities.

(6) Any flag having a maximum area of 60 square feet that does not display a commercial message, attached to a pole having a maximum height of 40 feet.

(7) Flags, regardless of whether they display a commercial message, having a maximum area of 24 square feet each. Such flags shall be limited to two per lot.

(8) An incidental sign that has a maximum sign area of four square feet and that delineates parking areas, vehicular entrances and exits, one-way traffic flows, or similar features of a traffic circulation system on a site. Such a sign shall not exceed three feet in height, shall not obstruct any sight triangle, shall not be located farther than 15 feet from the feature which it delineates, and shall not display any commercial message. Such signs may be illuminated.

(9) Non-illuminated signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant. All such signs are required to be placed in such a manner as to be visible from the street.

(10) Temporary signs that do not display commercial content and are displayed during the period beginning on the 30th day before the beginning date of "one-stop" early voting under N.C.G.S. Section 163-227.2 and ending on the tenth day after the primary or election day. Such signs shall not be located within a public street right-of-way or located closer than 10 feet to the edge of street pavement or within a required sight triangle, except as otherwise permitted by state law. Such signs shall be attached directly to the ground, shall have a maximum height of four feet and a maximum sign area of six square feet each, and shall not be illuminated.

(11) A temporary sign that has a maximum sign area of six square feet that is placed on a residential lot for maximum period of 62 hours in any seven-day period.

(12) A temporary sign placed on a lot or building that is actively being marketed for sale or for rent. Such signs shall be limited to one per street frontage, and shall have a maximum sign area of six square feet each if located on a single-family residential lot, or 32 square feet each if located on any other lot.

(13) Temporary banner signs that comply with the following standards:

a. On lots having 300 or more feet of street frontage on a major thoroughfare, one such sign is allowed for every 300 feet of street frontage on a major thoroughfare, with a maximum three such signs per lot, subject to subsection 3 below.

b. On all lots having less than 300 feet of street frontage on major thoroughfare, or any frontage on a minor thoroughfare or collector street, one such sign is allowed, subject to subsection 3 below.

c. Combined developments are permitted to have one such sign per establishment/tenant if the signs are attached flush against the building wall of the advertised business.

d. No such sign shall exceed 24 square feet in area;

e. Such signs shall be displayed for a period of sixty days or less in any calendar year.

f. Such signs shall be attached to the frontage wall of a principal structure and shall not be attached to any roof or other sign.

g. Such signs shall not be portable signs or off-premise signs.

h. Such signs shall not be illuminated.

i. Such signs shall be maintained in good condition and shall be removed or replaced upon becoming worn, faded, or torn.

(14) A temporary banner sign that has a maximum sign area of 24 square feet and is displayed in conjunction with and on the site of a temporary commercial use.

(15) A-frame sign that complies with the following standards:

a. The maximum sign display area is limited to six (6) square feet per sign face.

b. The maximum height of the sign is limited to four (4') feet above the grade of the surface upon which it is displayed when placed in its display position.

c. One sign may be displayed per customer entrance, provided that no more than two (2) a-frame signs may be displayed along the same building frontage.

d. The display areas (sign faces) shall be composed of rigid material.

e. Signs may be placed upon a public sidewalk or other pedestrian walkway, provided that a minimum of five (5) feet of unobstructed clearance is maintained along the directional path of the walkway.

f. In no case shall a sign be placed in a manner that obstructs vehicular access and movement.

g. A sign may only be displayed during the period beginning thirty (30) minutes prior to the daily opening and ending thirty (30) minutes following the daily closing of the business displaying the sign.

E. SIGNS THAT REQUIRE A SIGN PERMIT

(1) NUMBER, AREA, AND HEIGHT STANDARDS

a. STANDARDS FOR GC DISTRICT

Permanent ground, wall, canopy/awning, and projecting/suspended signs in the GC District shall comply with the standards for number, area, and height in Table 5.9.E(1)a: Standards for Sign Number, Area, and Height in the GC District.

Table 5.9.E(1)a: Standards for Sign Number, Area, and Height in the GC District

Sign Type	Development Type	Number of Signs Allowed	Sign Area, Max. (sq. ft.)	Height, Max. (ft.)
Ground Signs [1]	Individual Business	1 per frontage [2]	Pole or Monument Sign: 64 Arm Sign: 9	Pole or Monument Sign: 15 Arm Sign: 6
	Combined Development	1 per frontage [2]	Pole or Monument Sign: 64 plus 10 per additional tenant, not to exceed 100 sq. ft. Arm Sign: 9	Pole or Monument Sign: 20 Arm Sign: 6
	Commercial Subdivision (Entrance Sign)	1 per frontage, plus 1 per entrance road	Pole or Monument Sign: 64 Arm Sign: 32	Pole or Monument Sign: 20 Arm Sign: 6
	Civic/ Institutional Uses	1 per frontage [2]	Pole or Monument Sign: 64 Arm Sign: 9	Pole or Monument Sign: 15 Arm Sign: 6
Wall Signs	Individual Business and Combined Developments	1 per frontage [3]	1 sq. ft. per linear foot of width of the building to which wall sign is attached, not to exceed 120 sq. ft. or 10 percent of the area of the façade to which wall sign is attached	Not to extend above the vertical wall
Canopy/Awning Signs	Individual Business and Combined Developments	May be substituted for allowed wall sign	12	n/a
Projecting/Suspended Signs	Individual Business and Combined Developments	May be substituted for allowed wall sign	Projecting Sign: 6 Suspended Sign: 4	n/a

NOTES:
[1] Ground signs may include pole signs, monument signs, or arm signs.
[2] Subject to Section 5.9.E(3)a, Ground Signs.
[3] Subject to Section 5.9.E(3)b, Wall Signs.

b. STANDARDS FOR O-I, LI, AND HI DISTRICTS

Permanent ground, wall, canopy/awning, and projecting/suspended signs in the O-I, LI, and HI districts shall comply with the standards for number, area, and height in Table 5.9.E(1)b: Standards for Sign Number, Area, and Height in the O-I, LI, and HI Districts.

Table 5.9.E(1)b: Standards for Sign Number, Area, and Height in the O-I, LI, and HI Districts

Sign Type	Development Type	Number of Signs Allowed	Sign Area, Max. (sq. ft.)	Height, Max. (ft.)
Ground Signs [1]	Individual Business	1 per frontage [2]	*Principal structures totaling less than 25,000 GFA:* Monument Sign: 32 Arm Sign: 9 *Principal structures totaling 25,000 GFA or more:* Monument Sign: 64 Arm Sign: 9	*Principal structures totaling less than 25,000 GFA:* Monument Sign: 4 Arm Sign: 6 *Principal structures totaling 25,000 GFA or more:* Monument or Arm Sign: 6
	Combined Development	1 per frontage [2]	Monument Sign: 32 plus 8 for each additional tenant, up to a maximum of 64 sq. ft. Arm Sign: 9	Monument or Arm Sign: 6
	Subdivision (Entrance Sign)	1 per entrance road	Monument Sign: 32 Arm Sign: 9	Monument or Arm Sign: 6
	Civic/Institutional Uses	1 per frontage [2]	Monument Sign: 64 Arm Sign: 9	Monument Sign: 8 Arm Sign: 6
Wall Signs	Individual Business and Combined Developments	1 per frontage [3]	1 sq. ft. per linear foot of the building to which wall sign is attached, up to 64 sq. ft. in O-I District and 120 sq. ft. in LI and HI districts	Shall not extend above the vertical wall
Canopy/Awning Signs	Individual and/or Combined Developments	May be substituted for allowed wall signs	12	n/a
Projected/Suspended Signs	Individual and/or Combined Developments	May be substituted for allowed wall sign	Projecting Sign: 6 Suspended Sign: 4	n/a

NOTES:
[1] Ground signs may be monument signs or arm signs only. Pole signs are prohibited.
[2] Subject to Section 5.9.E(3)a, Ground Signs.
[3] Subject to Section 5.9.E(3)b, Wall Signs.

c. STANDARDS FOR MU-N, MU-AC, CC, MU-UC, MU-SC, AND PD-C DISTRICTS

Permanent ground, wall, canopy/awning, and projecting/suspended signs in the MU-N, MU-AC, CC, MU-UC, MU-SC, and PD-C districts shall comply with the standards for number, area, and height in Table 5.9.E(1)c: Standards for Sign Number, Area, and Height in the MU-N, MU-AC, CC, MU-UC, MU-SC, and PD-C Districts.

Table 5.9.E(1)c: Standards for Sign Number, Area, and Height in the MU-N, MU-AC, CC, MU-UC, MU-SC, and PD-C Districts

Sign Type	Development Type	Number of Signs Allowed	Sign Area, Max. (sq. ft.)	Height, Max (ft.)
GROUND SIGNS [1]	Individual Business	1 per frontage [2]	Principal structures totaling 10,000 GFA or more: Monument Sign: 32 Arm Sign: 9 Principal structures totaling less than 10,000 GFA: Monument Sign: 16 Arm Sign: 9	Monument Sign: 4 Arm Sign: 6
	Combined Development	1 per frontage [2]	Monument Sign: 32 plus 8 for each additional tenant, up to a maximum of 64 sq. ft. Arm Sign: 9	Monument Sign: 4 Arm Sign: 6
	Subdivision (Entrance Sign)	2 per entrance road along major thoroughfares	Monument Sign (on major thoroughfare): 32 Monument Sign (not on major thoroughfare): 16 Arm Sign: 9	Monument Sign (on major thoroughfare): 8 Monument Sign (not on major thoroughfare): 6 Arm Sign: 6
	Civic/Institutional Uses	1 per frontage [2]	Monument Sign: 64 Arm Sign: 9	Monument Sign: 8 Arm Sign: 6
WALL SIGNS	Individual Business and Combined Developments	1 per frontage [3]	1 sq. ft. per linear foot of the building to which wall sign is attached, not to exceed 32 sq. ft. or 10 percent of the area of the façade to which wall sign is attached in CC District, or64 sq. ft. in MU-N, MU-AC, MU-UC, MU-SC, AND PD-C districts [4]	Shall not extend above the vertical wall
CANOPY/AWNING SIGNS	Individual Business and Combined Developments	May be substituted for allowed wall signs	12	n/a
PROJECTED/SUSPENDED SIGNS	Individual Business and Combined Developments	1 per frontage [3]	Projecting Sign: 6 Suspended Sign: 4	n/a

NOTES:

[1] Ground signs may be monument signs or arm signs only. Pole signs are prohibited.

[2] Subject to Section 5.9.E(3)a, Ground Signs.

[3] Subject to Section 5.9.E(3)b, Wall Signs.

[4] For businesses located in the CC District with frontage on a major thoroughfare, except properties located along Main Street between 1st Street and Dale Earnhardt Boulevard, and Institutional and Civic Uses, total signage may be increased up to 120 sq. ft.

d. STANDARDS FOR AG, R1, R2, R4, R6, R7, R8, R18, TOD, PD, AND PD-TND DISTRICTS

Permanent ground, wall, canopy/awning, and projecting/suspended signs in the AG, R1, R2, R4, R6, R7, R8, R18, TOD, PD, and PD-TND districts shall comply with the standards for number, area, and height in Table 5.9.E(1)d: Standards for Sign Number, Area, and Height in the AG, R1, R2, R4, R6, R7, R8, R18, TOD, PD, and PD-TND Districts.

Table 5.9.E(1)d: Standards for Sign Number, Area, and Height in the AG, R1, R2, R4, R6, R7, R8, R18, TOD, PD, and PD-TND Districts

Sign Type	Development Type	Number of Signs Allowed	Sign Area, Max. (sq. ft.)	Height, Max. (ft.)
Ground Signs [1]	Multifamily dwellings, residential subdivision, and manufactured home parks (Entrance Sign)]	2 per entrance road along major thoroughfares	Monument Sign (on major thoroughfare): 32 Monument Sign (not on major thoroughfare): 16 Arm Sign: 9	Monument Sign (not on major thoroughfare): 6 Monument Sign (on major thoroughfare): 8 Arm Sign: 6
	Home Occupation	not permitted	n/a	n/a
	Boarding house, family care home, residential care facility, bed and breakfast establishment, and similar uses	1 per premises	Monument Sign: 16 Arm Sign: 9	Monument Sign: 4 Arm Sign: 6
	Civic/Institutional Uses	1 monument sign per premises Arm signs not permitted	Monument Sign: Less than 1 acre site: 16 Between 1 and 2 acre site: 24 Between 2 and 5 acre site: 32 Greater than 5 acre site: 48	Monument Sign: 8
	Other Uses	1 per premises	Monument Sign: 16 Arm Sign: 9	Monument Sign: 4 Arm Sign: 6
Wall Signs	Multifamily dwellings, residential subdivisions, and manufactured home parks	not permitted	n/a	n/a
	Home Occupation	1 per premises	Rural home occupation: 8 All other home occupations: 4	n/a
	Boarding house, family care home, residential care facility, bed and breakfast establishment, and similar uses	1 per premises as a substitute for a ground sign	5	n/a

Table 5.9.E(1)d: Standards for Sign Number, Area, and Height in the AG, R1, R2, R4, R6, R7, R8, R18, TOD, PD, and PD-TND Districts

Sign Type	Development Type	Number of Signs Allowed	Sign Area, Max. (sq. ft.)	Height, Max. (ft.)
	Civic/Institutional Uses	1 per frontage [2]	Principal structures totaling 10,000 GFA or more: 32 Principal structures totaling less than 10,000 GFA: 16	n/a
	Other Uses	1 per premises	16	n/a

NOTES:
[1] Ground signs may be monument signs or arm signs only. Pole signs are prohibited.
[2] Subject to Section 5.9.E(3)b, Wall Signs.

(2) PERMITTED SIGN CHARACTERISTICS

The use of animation, changeable copy, and illumination in a sign shall comply with Table 5.9.E(2): Permitted Sign Characteristics, based on the zoning district where the sign is proposed to be located.

Table 5.9.E(2): Permitted Sign Characteristics
P = Permitted P* = Permitted for Nonresidential Uses Only

Sign Characteristic	Zoning District		
	AG, R1, R2, R4, R6, R7, R8, R18, TOD, PD, PD-TND	MU-N, MU-AC, CC, MU-UC, MU-SC, PD-C	O-I, GC, LI, HI
Animated	–	–	–
Changeable Copy	P*	P	P
Electronic Message Board	P*	P	P
Illumination, Internal	P*	P	P
Illumination, Indirect	–	P	P
Illumination, Indirect, Exposed Bulbs or neon	–	P	–
Illumination, External Low Voltage (Residential Uses)	P	P	–

(3) ADDITIONAL STANDARDS FOR PERMANENT SIGNS

In addition to the standards in Section 5.9.E(1), Number, Area, and height Standards, and Section 5.9.E(2), Permitted Sign Characteristics, the standards in subsections a through d below, apply to signs permanently installed on a site for which a sign permit is required in accordance with Section 2.5.C(6), Sign Permit.

a. GROUND SIGNS

Ground signs shall comply with the following additional standards:

1. Minimum Spacing from Existing Ground Signs

No proposed ground-mounted sign shall be placed within 50 feet of an existing ground-mounted sign.

2. Lots with More Than One Street Frontage

Lots with more than one street frontage that is at least 100 feet in width at the street right-of-way shall be allowed one ground sign per frontage. No two ground signs shall be placed on the same street frontage.

3. Combined Developments

All uses within a combined development (including a combined development having more than one establishment or business on a common parcel) shall share ground-mounted signs permitted in accordance with Section 5.9.E(1), Number, Area, and height Standards. These regulations shall not apply to outparcels of the development.

4. Base Landscaping

All ground-mounted signs located within parking areas and not in yard areas, shall be located in a bed of landscaping at least 30 square feet in area. This area shall contain low growing materials such as ground covers, perennials, and shrubs, and shall be bordered by acceptable curbing materials as specified in Section 5.2, Off-Street Parking, Bicycle Parking, and Loading Standards.

5. Changeable Copy

Changeable copy or "reader board" area and electronic message board area are permitted as on-premise ground signs provided that the changeable copy or electronic message board area does not exceed 70 percent of the total area of the sign. Electronic message board displays shall not exceed five thousand (5,000) NITs during daylight hours and five hundred (500) NITs after dusk. The transition time between changes in the sign face or message shall be less than one second. The sign shall not display any message that moves, appears to move, scrolls, or changes in intensity during the fixed display period.

6. Drive-Through Menu Signs

Drive-through menu signs shall be limited to a maximum size of 32 square feet.

7. Curbside Pickup Sign

A curbside pickup sign shall be limited to a maximum size of three (3) square feet. The sign shall not be internally or externally illuminated. Each curbside pickup space is permitted one (1) curbside pickup sign.

b. WALL SIGNS

Wall signs shall comply with the following additional standards:

1. Building Walls Which Do Not Face Public Streets

The permitted wall sign may be placed on a wall that does not face a public street. The maximum allowable size shall be calculated as if the wall faces a public street. The maximum allowable size for a sign on one wall is not transferable to a wall with less frontage.

2. Corner or Double Frontage Lots

Lots with more than one street frontage shall be allowed to erect one additional wall or canopy sign on the secondary street frontage, if the secondary frontage is at least 100 feet wide at the street right-of-way. The secondary wall sign shall not be placed on the same building wall as the primary sign.

3. Wall Facing Side or Rear Parking Lot

Lots with parking to the side or rear of a building shall be allowed to erect one additional wall or canopy sign facing the parking lot, provided that at least 50 percent of the required parking for the establishment is located to the side or rear of the building and an entrance to the establishment faces the parking lot. The secondary wall sign may not be placed on the same building wall as the primary sign.

4. Extension From or Above Wall

No wall sign may extend more than one foot from the exterior of the wall and no portion of a sign shall extend above the wall on which it is mounted.

5. Historic Buildings

Wall signs on historic buildings shall be placed within the sign frieze, or distinct place within which a wall sign was intended to be located, if the building was designed for such. No wall sign shall extend beyond such space. If there is no sign frieze, the wall sign shall be placed below the typical second floor window area. The design and coloration of such signs shall be compatible with the character of the building.

6. Combined Developments

All establishments within combined developments shall use as individual identification signs, exclusively, canopy/awning or wall signs. No mixing of sign types within a combined development shall be permitted, except that canopies/awnings containing no advertising copy, may be used in combination with wall mounted signs.

7. Changeable Copy

Changeable copy or "reader board" area and electronic message board area are permitted as wall signs if the changeable copy or electronic message board area does not exceed 70 percent of the total area of the sign. Electronic message board displays shall not exceed five thousand (5,000) NITs during daylight hours and five hundred (500) NITs after dusk. The transition time between changes in the sign face or message shall be less than one second. The sign shall not display any message that moves, appears to move, scrolls, or changes in intensity during the fixed display period.

C. CANOPY/AWNING SIGNS

Canopy/awning signs shall comply with the following additional standards:

1. Valance and Copy Size

The valance, or apron, for any canopy shall in no case exceed 12 inches in height. Individual letters or symbols on these valances shall not exceed nine inches in height. This provision shall apply only to valances to which sign copy is affixed.

2. Illumination

Canopy/awning signs that may be illuminated shall have no bare bulbs present on or around the sign face.

3. Clearance Requirements

All canopy/awning signs attached to the underside of a canopy/awning shall maintain the minimum clearance above the ground level of any sidewalk or vehicular access area as specified in the Building Code.

4. Historic Buildings

No canopy/awning sign shall be permitted on a historic building unless documentation indicates that such a sign was used on the building when originally constructed and occupied. The design and coloration of such signs shall be compatible with the character of the building.

5. Combined Developments

All establishments within combined developments shall use as individual identification signs, exclusively, canopy/awning or wall signs. No mixing of sign types within a combined development shall be permitted, except that canopies/awnings containing no advertising copy, may be used in combination with wall mounted signs.

d. PROJECTING OR SUSPENDED SIGNS

Projecting signs and suspended signs shall comply with the following standards:

1. No portion of a projecting or suspended sign shall extend more than five feet from the building wall to which it is attached.

2. A projecting or suspended sign shall not extend more than five feet into the public right-of-way. A projecting or suspended sign shall not encroach over a motorized vehicle travel way, such as a public or private street, alley, or driveway. If such a sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining, and maintaining in force, liability insurance in an amount of not less than $500,000 per occurrence per sign.

F. COMPREHENSIVE SIGN PACKAGES

(1) PURPOSE

The purpose of the Comprehensive Sign Package is to encourage innovative, creative, and effective signage by providing an alternative to the general permanent signage criteria in this section.

(2) APPLICABILITY

a. As an option to the permanent signage standards set forth in this section, freestanding structures in excess of 25,000 square feet and/or master planned developments in excess of 10 acres shall be allowed to submit an application for a Comprehensive Sign Package. All Comprehensive Sign Packages shall be reviewed as a special use permit in accordance with the procedures set forth in Section 2.5.A(5), Special Use Permit.

b. Any signage not specifically identified in the Comprehensive Sign Package shall conform to the standards in this section.

(3) ARCHITECTURAL THEME

All signs must be architecturally integrated into/with the design of the building and/or site using similar and coordinated design features, materials, colors, etc.

(4) MASTER SIGNAGE PLAN

The Comprehensive Sign Package shall include a master signage plan that includes the following:

a. A site plan meeting the requirements of the Land Development Standards Manual, that identifies the locations of freestanding, multi-tenant, and directional signs;

b. A list of each type of sign to be permitted in the development with accompanying allowances. At a minimum, the following information shall be provided:

1. Freestanding sign regulations to include dimensions of support structures, dimensions of sign face, permitted sign copy area (maximum individual and aggregate sign area per establishment), and maximum height of sign;

2. Wall sign allowances to include permitted sign copy area (maximum individual and aggregate sign area per establishment), heights (in relation to storefront height) and area (in relation to storefront area);

3. Directional sign allowances to include height and sign area;

4. Illumination guidelines describing the type(s) allowed, placement, intensity, and hours of illumination;

5. Changeable copy guidelines ;

6. Temporary signage guidelines; and

7. Theme and/or color guidelines providing graphic depictions of sign designs, color palettes, font style and letter size, illumination, materials, and sample sign copy areas; and

c. A demonstration that all freestanding signage meets the site triangle requirements in the LDSM.

SECTION 5.10. STORMWATER MANAGEMENT STANDARDS

A. FINDINGS

(1) The Kannapolis City Council makes the following findings:

a. Development and redevelopment have the following impacts:

1. Alteration of the hydrologic response of local watersheds;

2. Increase in stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition; and

3. Reduction of groundwater recharge;

b. These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment;

c. These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites; and

d. The Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, require the City to adopt the minimum stormwater controls in this section.

(2) Therefore, the Kannapolis City Council hereby adopts the water quality and quantity regulations set forth in this section to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

B. PURPOSE AND INTENT

The purpose of this section is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum standards to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution, and to control illicit discharges into municipal stormwater systems. The standards in this section are intended to ensure proper management of construction-related and post- development stormwater runoff in order to minimize damage to public and private property and infrastructure, protect water and aquatic resources, and

safeguard the public health, safety, and general welfare. The provisions in this section are intended to achieve the purpose of this section specifically by:

(1) Establishing decision-making processes for development that protects the integrity of watersheds and preserves the health of water resources;

(2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state, as nearly as practicable for the applicable design storm in order to reduce flooding, streambank erosion, nonpoint and point source pollution, and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural Stormwater Control Measures ("SCMs") that may be used to meet the minimum post- development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace and other conservation areas, to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

(7) Establishing administrative procedures for the inspection of approved projects and for assuring their long-term maintenance;

(8) Coordinating site design plans that include open space and natural areas as referenced within this Ordinance;

(9) Controlling illicit discharges into the municipal separate stormwater system;

(10) Controlling erosion and sedimentation from construction activities; and

(11) Assigning responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention.

C. APPLICABILITY

(1) Except as otherwise provided in subsection (2) below, the provisions in this section apply to activities that require approval of a stormwater management permit in accordance with Section 2.5.C(10), Stormwater Management Permit.

(2) The requirements in subsections (1), (6), and (7) of Section 5.10.E, Standards, below, apply to all development within the City, regardless of whether a stormwater management permit is required.

D. DETERMINATION OF COMPLIANCE

(1) GENERAL

a. The Director of Engineering shall evaluate all Stormwater Control Measures (SCMs) and stormwater treatment practices required under this section and shall determine whether they meet the requirements of this section. The Director of Engineering's evaluation and determination shall be based on the policies, criteria, and information (including technical specifications and standards and the specific design criteria for each stormwater practice) in the most recent edition of the North Carolina Department of Environmental Quality ("NCDEQ") Stormwater Design Manual ("Design

Manual"). Stormwater treatment practices that are designed, and constructed, and maintained in accordance with the criteria and specifications in the Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this section. The Director of Engineering may authorize exceptions to the Design Manual in accordance with subsection b below.

b. If an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this section. The Director of Engineering may require the applicant to provide documentation, calculations, and examples necessary for the Director to determine whether such an affirmative showing is made.

c. Where the specifications or guidelines of the Design Manual conflict with other laws or regulations, the provisions that are more restrictive or apply a higher standard shall control.

d. If provisions in the Design Manual are amended subsequent to the submittal of a development application under this Ordinance but prior to its approval or denial, the amended provisions shall control and shall be utilized in reviewing the application.

(2) USE OF CHARLOTTE MECKLENBURG STORM WATER DESIGN MANUAL

a. The City Council hereby finds that hydrologic conditions in Cabarrus and Rowan Counties are similar to those in Mecklenburg County and that it is in the public interest to maintain a uniform regional procedure for computing the stormwater impacts of new development. Accordingly, the computation of peak flows, runoff volumes, and discharge capacities for storm events and stormwater management facilities shall use the methodology in the Charlotte Mecklenburg Storm Water Design Manual (available on the the City of Charlotte-Mecklenburg County website, www.charmeck.org). U.S. Geological Survey and National Oceanic and Atmospheric Administration (NOAA) rainfall data for Cabarrus and Rowan County shall be used in the analysis of stormwater facilities.

b. Where the Charlotte Mecklenburg Storm Water Design Manual and the NCDEQ Stormwater Design Manual have conflicting design standards, the Charlotte Mecklenburg standards shall control when evaluating stormwater detention and flow rate calculations and the NCDEQ standards shall control in all other cases.

c. The following sections of the Charlotte Mecklenburg Storm Water Design Manual shall not apply to this Ordinance: Approximate Flood Limits, Storm Drain Location, Inlet Types and Spacing, Cross Slope, Curb and Gutter, and Detention Facilities Used for Credits, including any references to the Charlotte-Mecklenburg Land Development Standards Manual or to storm water fees.

E. STANDARDS

All development and redevelopment to which this section applies (see Section 5.10.C, Applicability) shall comply with the standards in subsections (1) through (8) below.

(1) LOT GRADING AND LANDSCAPING STANDARDS

All interim and permanent drainage facilities shall be designed and constructed in accordance with the standards in this section.

a. POSITIVE DRAINAGE REQUIRED

Developments shall be designed and constructed with a positive drainage flow away from buildings towards approved stormwater management facilities.

b. ALL IMPERVIOUS SURFACES TO BE CONSIDERED

All impervious surfaces in the proposed development (including off street parking) shall be considered in the design of site grading plans.

c. PROTECTION FROM SEDIMENTATION

Site grading and drainage facilities shall protect sinkholes, wetlands, ponds, and lakes from increased sediment loading.

d. INCREASED RUNOFF PROHIBITED

Site grading shall not increase the volume or velocity of runoff onto downstream properties for the one year and ten year storm events, unless specifically approved as part of a project's drainage plan. Exceptions to this will be at the discretion of the Director of Engineering.

e. LANDSCAPING.

All disturbed areas within the dedicated right-of-way and easements of any subdivision street shall be restored with vegetation. Street trees shall be planted or, where permitted trees already exist, consistent with the Section 5.3, Landscaping and Buffer Standards, shall be maintained and protected between the paved areas and sidewalks. Where no sidewalks are required, street trees shall be planted or existing trees shall be maintained or protected between the paved areas and the edge of the right-of-way.

f. DESIGNATION AS OPEN SPACE.

Stormwater facilities to be located in designated open space areas shall be regulated in accordance with Section 5.4, Open Space Set-Aside Standards.

g. PERMEABLE PAVEMENT.

Certain provisions of this Ordinance (See Section 5.2, Off-Street Parking, Bicycle Parking, and Loading Standards; Section 5.11, Sustainable/Green Building Standards; and Section 5.12, Sustainable/Green Building Incentives) permit permeable pavement in some situations. Where permeable pavement is used separately from those provisions, it shall conform to requirements in the Design Manual.

(2) LOW-DENSITY PROJECT STANDARDS

Low-density projects shall comply with the following standards.

a. On lands in the WPO district, the maximum built-upon area shall be in accordance with Table 3.8.I(8): Maximum Development Intensity. On lands outside the WPO district, low-density projects shall consist of those projects having 24 percent or less built-upon area. The development shall comply with all applicable state regulations, including 15A NCAC 2H .1003.

b. Stormwater runoff from the development shall be transported from the development by vegetated conveyances, to the maximum extent practicable.

c. The development shall comply with applicable standards in Section 3.8.H, River/Stream Overlay (RSO) District.

d. An enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, shall be provided to ensure that future development and redevelopment maintains the site consistent with the approved development plans.

e. The development shall meet all applicable stormwater detention requirements in the LDSM.

(3) HIGH-DENSITY PROJECT STANDARDS

High-density projects shall comply with the following standards.

a. On lands in the WPO district, the maximum built-upon area shall be in accordance with Table 3.8.I(8): Maximum Development Intensity. On lands outside the WPO district, high-density projects shall consist of those projects having greater than 24 percent built-upon area.

b. SCMs shall comply with applicable state regulations, including 15A NCAC 2H .1003, and 15A NCAC 2H .1050, *et seq*.

c. BMPs shall be designed to meet the current NCDEQ Minimum Design Standards for stormwater BMPs and the receiving stream requirements along with the requirements of 15A NCAC 02H.

d. The development shall comply with applicable standards in Section 3.8.H, River/Stream Overlay (RSO) District.

e. An enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, shall be provided to ensure that future development and redevelopment maintains the site consistent with the approved development plans.

f. The development shall meet all applicable stormwater detention requirements in the LDSM.

(4) CAPACITY OF STORMWATER MANAGEMENT FACILITIES

a. Development that requires sediment and erosion control plan approval or that will exceed 20,000 square feet of impervious coverage shall be required to construct a complete drainage system sufficient to mitigate the impacts of the design rainfall event.

b. Post development runoff shall not exceed pre-development runoff unless a maximum discharge rate has been adopted for the applicable drainage basin and the discharge does not exceed that rate.

c. If a maximum discharge rate has not been adopted for the applicable drainage basin, post development discharge may not exceed predevelopment discharge. Stormwater volumes resulting from the proposed development shall be detained within the development and released at a rate no greater than existed prior to the development.

d. Detention facilities shall be designed to maintain the predeveloped runoff rate from the 1-year and 10-year, 24 hour design storm events.

e. Emergency spillway facilities shall be designed to accommodate the 50-year, 24 hour frequency storms. Cross-drainage storm sewers shall be designed for a 25-year, 24 hour frequency storm, unless located within a FEMA flood hazard area, in which case the storm sewer shall be designed for the 100-year, 24 hour storm event. All other storm sewers shall be designed for a 10-year, 24 hour frequency storm.

f. All subdivision site plans for uses in the Residential, Commercial, and Industrial use categories shall include an analysis of off-site downstream features to determine the stormwater impacts on the receiving private and public properties. The analysis shall extend a minimum of one-fourth of a mile downstream from the project and include measures to mitigate these impacts.

(5) EASEMENTS

a. Easements, rights-of-way, or other legal access shall be provided to all stormwater management facilities for inspection, periodic maintenance, and infrequent repairs. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes. Property owners and their successors in interest are responsible for the maintenance and upkeep of the easement area in accordance with the Operations and Maintenance Agreement (see Section 5.10.F(2), Operation and Maintenance Agreement).

b. If a property owner fails to comply with the Operations and Maintenance Agreement, the property shall grant the City easements for access, inspection, and emergency maintenance by the City. Emergency maintenance performed or directed by the City shall be completed at the cost of the owner of the detention facility. No permanent structures or other impediments to access shall be constructed within the area of easement.

c. The Director of Engineering may require any water course or stormwater management facility to be located within a dedicated drainage easement officially recorded by the Cabarrus or Rowan County Register of Deeds as a "permanent detention easement" that provides sufficient width for maintenance.

(6) OBSTRUCTION OF DRAINAGE CHANNELS PROHIBITED

No fences or structures shall be constructed across an open or closed drainage channel that will reduce or restrict the flow of water or adversely affect the public infrastructure.

(7) ONSITE WASTEWATER

a. New and replaced onsite above ground systems for domestic wastewater installed after the effective date of this Ordinance shall be subject to the same requirements for operation and maintenance as are structural SCMs for stormwater, including, at a minimum, annual inspection reports and a recorded operation and maintenance agreement, in accordance with Section 5.10.F, Operation and Maintenance. Below ground systems shall be maintained in proper working order.

b. Onsite systems for domestic wastewater, which are privately owned by a property owner and covered by this Ordinance, shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water or groundwater.

(8) NUTRIENT SENSITIVE WATERS

In addition to the standards for stormwater handling set out in the Design Manual, development and redevelopment that drains in whole or part to class NSW waters shall design and implement the best stormwater practices that reduce nutrient loading, while still meeting the other requirements of this section.

F. OPERATION AND MAINTENANCE

(1) GENERAL MAINTENANCE REQUIREMENTS

a. FUNCTION OF SCMS AS INTENDED

The landowner or person in possession or control of the land upon which each structural SCM is installed in accordance with this section shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural SCM was designed.

b. ANNUAL MAINTENANCE INSPECTION AND REPORT

1. The individual responsible for maintenance of a structural SCM installed in accordance with this section shall submit to the Director of Engineering an inspection report annually, from a qualified registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence. The inspection report shall contain all of the following:

(a) The name and address of the landowner;

(b) The recorded book and page number of the lot of each structural SCM;

(c) A statement that an inspection was made of all structural SCMs;

(d) The date the inspection was made;

(e) A statement that all inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this section; and

(f) The original signature and seal of the engineer, surveyor, or landscape architect.

2. All inspection reports submitted in accordance with subsection 1 above, shall be on forms supplied by the Director of Engineering. An inspection report shall be submitted to the Director of Engineering beginning one year from the date of as-built certification for the structural SCM, and continuing each year thereafter on or before the date of the as-built certification.

c. PREVENTION OF NUISANCE

The owner of each stormwater SCM, whether structural or non-structural SCM, shall maintain it so as not to create or result in a nuisance condition.

(2) OPERATION AND MAINTENANCE AGREEMENT

a. GENERAL REQUIREMENTS

Prior to the conveyance or transfer of any lot or building site to be served by a structural SCM in accordance with this section, and prior to issuance of any permit for construction, development, or redevelopment requiring a structural SCM under this section, the applicant or owner of the site must execute an operation and maintenance agreement that shall run with the land and be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural SCM. Until the transference of all property, sites, or lots served by the structural SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

1. The operation and maintenance agreement shall require the owner or owners or successors in interest to maintain, repair, and, if necessary, reconstruct the structural SCM, and shall state the terms, conditions, and schedule of maintenance for the structural SCM. In addition, it shall grant to the City of Kannapolis a right of entry in the event that the Director of Engineering has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural SCM. In no case shall the right of entry, of itself, confer an obligation on the City of Kannapolis to assume responsibility for the structural SCM.

2. Each operation and maintenance agreement shall contain, without limitation, the following provisions:

(a) A description of the property on which the SCM is located and all easements from the site to the facility;

(b) Size and configuration of the SCM;

(c) A statement that properties which will be served by the SCM facility are granted rights to construct, use, inspect, replace, reconstruct, repair, maintain, and access the device and to transport, store, and discharge stormwater to and from the device;

(d) A statement that the SCM shall be maintained in accordance with the attached stormwater operations and maintenance manual and budget (see subsection 4 below), shall perform as designed, and at all times shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities;

(e) The provisions in Section 5.10.F(2)b, Special Requirements for Homeowners' and Other Associations, if the SCM is, or is to be owned and maintained by a homeowners' association, property owners' association, or similar entity;

(f) A statement that no land-disturbing activity, placement of impervious surface, removal of vegetation, encroachment, construction or erection of any structure shall occur within permanently protected undisturbed open space areas, except in accordance with a permit first being issued by the City of Kannapolis;

(g) A statement that the stormwater control measures are required to comply with Kannapolis City Code of Ordinances and that failure to maintain a SCM is a violation of the City Code potentially subjecting each lot owner subject to the agreement to significant daily civil penalties and other enforcement actions; and

(h) A statement that each lot served by the SCM is jointly or severally responsible for repairs and maintenance of the device and any unpaid ad valorem taxes, public assessments for improvements, and unsafe building and public nuisance abatement liens charged against the facility, including all interest charges together with attorneys' fees, cost and expenses of collection. A requirement of contribution in favor of each owner shall be included in the operation and maintenance agreement. That failure to maintain SCM is a violation of the City Code potentially subjecting each lot owner subject to this legal document to significant daily civil penalties and other enforcement actions.

3. An operation and maintenance plan or manual, together with a budget, shall be provided by the initial developer. The plan or manual shall indicate what operation and maintenance actions are needed, and what specific quantitative criteria will be used to determine when those actions are to be undertaken. The plan or manual must indicate the steps that will be taken to restore a stormwater system to design specifications if a failure occurs. The budget shall include the following:

(a) Annual costs such as routine maintenance, periodic sediment removal and replenishment of rip-rap, insurance premiums, taxes, mowing and reseeding, and required inspections (common costs include (i) maintenance of the SCM, (ii) premiums for liability insurance in an amount of not less than $1,000,000.00 covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of common areas, including the SCM, and (iii) premiums of hazard insurance on the common area(s) insuring against all risk of loss commonly insured against, including fire and extended coverage of peril); and

(b) The operation and maintenance agreement shall include the establishment of an escrow account created by the Owner or Developer.

(c) If structural SCMs are not performing adequately or as intended, or are not properly maintained, the City, in its sole discretion, may remedy the situation and in such instances the City shall be fully reimbursed from the escrow account.

(d) The Owner or Developer shall fund the escrow account as follows:

1. Prior to plat recordation or issuance of construction permits, whichever first occurs, the Owner or Developer shall establish and maintain a separate escrow account to establish, collect or retain funds for maintenance, repair, replacement and reconstruction costs for the

stormwater control project's original cost of construction and shall be managed by the Owner or Developer.

2. The amount of the escrow account shall not exceed ten percent (10%) of the original const to construct the SCM as estimated by the sealed engineers.

3. The Owner or Developer shall deposit into the escrow account no less than two percent (2%) of the engineer's estimated costs.

4. The Owner or Developer shall have a period of five (5) years from the acceptance of the SCM to fully deposit the required escrow account.

5. The Owner or Developer shall annually by January 30 of each year verify to the City Engineer the amount held in the escrow account.

4. Each SCM shall be maintained by the landowner, homeowners' association, property owners' association, or commercial lot owner(s) designated in the approved stormwater operations and maintenance manual and budget. An association may be delegated responsibilities in subsection 2 above only if:

(a) Membership into the association is mandatory for each parcel served by the device and any successive owner;

(b) The association has the power to levy assessments for obligations imposed by the agreement; and

(c) All unpaid assessments levied by the association become a lien on the individual parcel.

5. The operation and maintenance agreement must be approved by the Director of Engineering prior to plan approval. The approved agreement shall be referenced on the final plat, and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be submitted to the Director of Engineering within 14 days of its recordation. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

b. SPECIAL REQUIREMENTS FOR HOMEOWNERS' AND OTHER ASSOCIATIONS

For all structural SCMs required by this section that are, or are to be owned and maintained by a homeowners' association, property owners' association, or similar entity, ("Association") the operation and maintenance agreement ("Agreement") required by subsection a above, shall comply with the following requirements, in addition to those in subsection a above.

1. Continuous Operation and Maintenance

The Agreement shall include acknowledgment that the Association shall continuously operate and maintain the stormwater control and management facilities.

2. Escrow Account

(a) The Agreement shall include the establishment of an escrow account created and maintained by the Developer and Associate and then maintained by the Association.

(b) If structural SCMs are not performing adequately or as intended, or are not properly maintained, the City, in its sole discretion, may remedy the situation, and in such instances the City shall be fully reimbursed from the escrow account.

(c) Both Developer and Association shall fund the escrow account, as follows:

1. Prior to plat recordation or issuance of construction permits, whichever first occurs, the Developer or the Association shall establish and maintain a separate escrow account to

establish, collect or retain funds for maintenance, repair, replacement and reconstruction costs for the stormwater control project's original cost of construction and shall be managed by the Association.

2. The amount of the escrow account shall not exceed ten percent (10%) of the original cost to construct the SCM as estimated by the sealed. Engineers.

3. The Developer shall deposit into the escrow account no less than two percent (2%) of the engineer's estimated costs.

4. The Association shall have a period of five (5) years from acceptance of the SCM to fully deposit the required escrow amount.

5. The Association shall annually by January 30 of each year verify to the City Engineer the amount held in the escrow account.

3. City's Right of Entry

The Agreement shall grant the City a right of entry to inspect, monitor, maintain, repair, and reconstruct structural SCMs.

4. Owner Covenants

The Agreement shall specify that each landowner, by acceptance of a deed or other instrument conveying title to a lot or building site, whether or not it shall be so expressed therein, is deemed to covenant and agree to the following:

(a) The payment to the Association (or to any person who may be designated by the Association to collect such monies) of a stormwater assessment, established and collected as hereinafter provided.

(b) The annual budget for the Association shall include the stormwater assessments as a line item, and the amount budgeted shall be sufficient to satisfy the total annual inspection, management, and maintenance budget for the SCM and any replacement account. The Association shall honor its obligations under the Agreement, and the Association shall assess the stormwater assessment. Each landowner shall be obligated to pay the stormwater assessment, whether or not the annual budget contains the required line item for the stormwater assessment, and whether or not the annual budget is ratified by the members of the Association. No vote of the landowners is required to levy, collect, or foreclose a stormwater assessment. Stormwater assessments shall be paid to the Association at the same time annual assessments are due.

(c) Stormwater assessments shall be used as follows:

1. Payment of the actual and estimated expenses incurred or anticipated to be incurred by the Association, including any reasonable reserve funds, under any stormwater operation and maintenance agreement, including maintenance of any SCM so that it performs as designed at all times and complies with the stormwater operations and maintenance agreement, the City Code, and all applicable regulations and rules and directives of the City;

2. Payment of legal, engineering, and other professional fees incurred by the Association in carrying out its duties as set forth in this section, or in the stormwater operations and maintenance agreement for the SCM; and

3. Payments to the City pursuant to the operations and maintenance agreement.

(d) If the stormwater assessment is not paid within 45 days after the payment due date, a lien upon the lot or building site may be established in accordance with N.C.G.S. § 47F-3-116(g). The amount of the lien shall be the amount of the stormwater assessment against the lot or building site, together with interest at a rate not to exceed the highest rate allowed by North Carolina law, computed from the date the delinquency first occurs, any late charges, and any costs of collection incurred, including reasonable attorney's fees. The claim of lien shall be filed in the manner

provided in N.C.G.S. § 47F-3-116(g), in the office of Clerk of Superior Court in the county in which the lot or building site is located. A lien so established shall be a continuing lien upon the lot or building site against which the stormwater assessment is made until paid in full.

(e) A lien established in accordance with subsection (d) above, may be foreclosed in accordance with North Carolina law, or in any other manner permitted by law. Neither the holder of a first mortgage or first deed of trust of record, nor a purchaser of a lot or building site who obtains title to the lot or building site as a result of a foreclosure of a first mortgage or first deed of trust, nor the heirs, successors, and assigns of such purchaser, shall be liable for stormwater assessments against the lot or building site which became due prior to the purchaser's acquisition of title to the lot or building site. Any such unpaid stormwater assessments shall be deemed a debt collectible from all landowners, including the purchaser.

(f) Each stormwater assessment, together with late charges, interest, and the costs of collection thereof, including attorney's fees, shall also be the personal obligation or corporate obligation of each individual or entity who was the owner of a lot or building site at the time when the stormwater assessment first became due and payable. If more than one individual or entity held an ownership interest in the lot or building site at the time the stormwater assessment first became due, then each individual or entity shall be both jointly and severally liable. A landowner's personal obligation for payment of stormwater assessments shall not become the personal obligation of a subsequent owner the lot of building site unless expressly assumed by the subsequent owner, although the lien shall continue against the lot or building site until the amount due is paid.

(g) The creation of the stormwater assessments is for the benefit of the City, and the stormwater assessments may be collected and enforced by the City as provided herein and in other provisions of the City Code.

(h) Additional real property annexed to the Association shall be subjected to any existing operation and maintenance agreement upon the recording of the document annexing the additional property, either in the form of a new agreement and/or an amendment to an existing agreement (as determined by the City) which shall be entered into between the City and the Association to address the SCMs of the additional property.

(i) There shall be dedicated for the benefit of each lot or building site, the common area, and each landowner:

1. A perpetual, irrevocable and nonexclusive easement, right, and privilege to discharge and store surface water drainage from such lot or building site or common area into the SCM situated in private drainage easements that serve the property within the development, regardless of whether the SCM is located within the development; and

2. A perpetual, irrevocable, and non-exclusive easement, right, and privilege to use and maintain SCMs, including the right of access to and from the private drainage easements and other portions of the development that is reasonably necessary to maintain the SCMs.

(j) Each Owner of any portion of the property served by the SCM is jointly and severally responsible for maintenance of the SCM, including payment of any unpaid ad valorem taxes, public assessments for improvements, and unsafe building and public nuisance abatement liens charged against the SCM, and including all interest charges thereon, together with the costs and expenses of collection incurred by the City or other collecting entity, including court costs and reasonable attorney's fees actually incurred. Each owner of property served by the SCM has a right of contribution against all other owners of property served by the same SCM to the extent that the owner having such right of contribution pays more than such owner's pro rata share thereof.

(k) The Agreement shall include:

1. A statement that Agreement shall not obligate the City to maintain or repair any structural SCMs, and the City shall not be liable to any person for the condition or operation of structural SCMs;

2. A statement that the Agreement shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law; and

3. A provision indemnifying and holding harmless the City, its agents, contractors, and employees for any costs and injuries arising from or related to the structural SCM, unless the City has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

(3) INSPECTIONS

a. The City may conduct inspections and establish inspection programs on any reasonable basis, including but not limited to routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in SCMs; and evaluating the condition of SCMs.

b. If the owner or occupant of any property refuses to permit an inspection pursuant to subsection a above, the Director of Engineering shall proceed to obtain an administrative search warrant pursuant to N.C.G.S. § 15-27.2. No person shall obstruct, hamper, or interfere with the Director of Engineering's carrying out of the Director's official duties.

(4) SIGNAGE

Where appropriate to ensure compliance with this section, the Director of Engineering may require that structural SCMs be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained to be visible and legible.

(5) RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The owner of each structural SCM shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Director of Engineering.

G. PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE

(1) GENERAL

The City of Kannapolis requires the submittal of a maintenance performance security or bond with surety, cash escrow, letter of credit, or other acceptable legal arrangement, prior to issuance of a permit in order to ensure that structural SCMs are:

a. Installed by the permit holder as required by the approved stormwater management plan; and/or

b. Maintained by the owner as required by the operation and maintenance agreement.

(2) AMOUNT

a. The amount of an installation performance security shall be the total estimated construction cost of the SCMs approved under the permit, plus 25 percent.

b. The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation, and maintenance of the SCMs approved under the permit, at a discount rate that reflects the City's cost of borrowing minus a reasonable estimate of long term inflation.

(3) DEFAULT

a. If the owner fails to construct, maintain, repair, or, if necessary, reconstruct any structural SCM in accordance with the applicable permit or operation and maintenance agreement, after submitting a request to the owner to comply with the permit or maintenance agreement, the Director of Engineering shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. In the event of a default triggering the use of installation performance security, the City shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

b. In the event of default, the City may recover from the applicant, owner, or successor the costs for enforcement actions including but not limited to court costs and attorney fees.

(4) REFUND OR TERMINATION OF SECURITY

Within 60 days of the final approval, the installation performance security shall be refunded to the applicant or terminated, with the exception of any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the SCMs covered by the security. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

H. SEDIMENTATION AND EROSION CONTROL

This section is reserved for future inclusion of local sedimentation and erosion control administration and enforcement. Until such time, the NC Department of Environmental Quality (DEQ) shall have jurisdiction in Kannapolis. State standards, requirements, and procedures shall apply to all projects in the City of Kannapolis.

SECTION 5.11. SUSTAINABLE/GREEN BUILDING STANDARDS

A. PURPOSE AND INTENT

The purpose of this section is to ensure development in the City includes a minimum degree of sustainable/green building features as a means of protecting and conserving resources, reducing greenhouse gas emissions, and supporting a healthy lifestyle and a high quality of life for City residents. Specifically, this section is intended to ensure development practices:

(1) Conserve energy;

(2) Promote the use of alternative energy;

(3) Conserve water resources;

(4) Protect water quality;

(5) Support walkable urbanism;

(6) Support a variety of mobility options;

(7) Promote a healthy landscape;

(8) Support urban agriculture;

(9) Encourage innovative, environmentally friendly building practices;

(10) Reduce landfill waste; and

(11) Promote healthy and active lifestyles.

B. APPLICABILITY

(1) Unless exempted in accordance with Section 5.11.B(2) below, the standards of this section shall apply to all new development.

(2) The following are exempt from the standards of this section:

a. Residential development that contains less than 10 dwelling units;

b. Nonresidential development with a gross floor area of less than 8,000 square feet;

c. Buildings that have achieved requirements necessary to receive certification from the U.S. Green Building Council at the LEED® gold level or above or an equivalent level of sustainable development performance under an alternative rating system such as the National Green Building Standard™/NGBS Green or the International Code Council's *International Green Construction Code*, as determined by the Planning Director; and

d. Remodels, alterations, or expansions of an existing building.

C. TIMING OF REVIEW

Review for compliance with the standards of this section shall occur during review of a development application for a conditional zoning (see Section 2.5.A(3)), planned development (see Section 2.5.A(4)), special use permit (see Section 2.5.A(5)), site plan (see Section 2.5.B(1)), minor subdivision (see Section 2.5.B(2)), major subdivision (see Section 2.5.B(3)), or zoning clearance permit (see Section 2.5.C(1)), as appropriate.

D. SUSTAINABLE/GREEN BUILDING STANDARDS

(1) MINIMUM AMOUNT OF POINTS REQUIRED

Development subject to the standards of this section shall achieve the following minimum number of points from the menu of options shown in Table 5.11.D(2): Sustainable/Green Building Point System.

1. Minimum Requirements for Residential Development

(a) 10 to 29 units: 3 points.

(b) 30 or more units: 4 points.

2. Minimum Requirements for Nonresidential Development

(a) 8,000 to 25,000 square feet: 3 points.

(b) More than 25,000 square feet: 4 points.

(2) SUSTAINABLE/GREEN BUILDING POINT SYSTEM

Development subject to the standards of this section shall use Table 5.11.D(2): Green Building Point System, to determine compliance with this section.

Table 5.11.D(2): Sustainable/Green Building Point System

	Points Earned
Location of Development and Redevelopment/Adaptive Reuse	
Development in the CC, MU-UC, or MU-AC districts	0.75
Development on previously used or developed land that is contaminated with waste or pollution (brownfield site)	1.00
Development as a PD-TND District	1.00
Redevelopment of an existing parcel within the MU-AC District or TOD District	0.75
Adaptive reuse of a designated historic building	1.00
Preservation of an historic or archeological site	1.00
Energy Conservation	
Meet ASHRAE standards for lighting	0.75
Meet Energy Star standards for low-rise residential or exceed ASHRAE efficiency standards by 15 percent	1.00
Home energy rating system (HERS) index greater than 90 and less than or equal to 95	0.50
HERS index greater than 85 and less than or equal to 90	0.75
HERS index greater than 75 and less than or equal to 85	1.00
HERS index less than or equal to 75	1.50
Stated water heater efficiency between 0.675 to 0.82	0.75
Stated water heater efficiency of 0.82 or more	1.25
Air conditioner with stated efficiency greater than 14 SEER is included as standard	0.75
Air conditioner with stated efficiency greater than 16 SEER is included as standard	1.25
Install a "cool roof" on a minimum of 50 percent of the rooftops in the development or subdivision. The "cool roof" shall cover the entire roof of the dwelling.	1.50
Provide skylights in an amount necessary to ensure natural lighting is provided to at least 15 percent of the habitable rooms in the structure	0.50
Use central air conditioners that are Energy Star qualified	0.50
Use only solar or tank-less water heating systems throughout the structure	0.50
Install automatic light shutoff systems in buildings three stories or taller.	0.25
Alternative Energy	
Generate or acquire a minimum of 50 percent of the electricity needed by the development from alternative energy sources (e.g., solar, wind, geothermal)	2.00
Generate or acquire a minimum of 25 percent of the electricity needed by the development from alternative energy sources (e.g., solar, wind, geothermal)	1.00
Pre-wire a minimum of 75 percent of residential dwelling units in the development for solar panels	1.00
Pre-wire a minimum of 50 percent of residential dwelling units in the development for solar panels	0.50
Pre-wire a minimum of 25 percent of residential dwelling units for solar panels	0.25
Install solar panels on a minimum of 25 percent of dwelling units contained in single-family, duplex, or townhouse dwellings	0.50
Install solar panels on primary structure, or at least 50 percent of buildings in a multi-building complex	0.75

Table 5.11.D(2): Sustainable/Green Building Point System

	Points Earned
LEED Certification or Equivalent	
Construct the principal building(s) to meet or exceed LEED ® Bronze certification or equivalent standards of the National Green Building Standard™/NGBS Green or the International Code Council's *International Green Construction Code*, or	1.00
Construct the principal building(s) to meet or exceed LEED ® Silver certification or equivalent standards of the National Green Building Standard™/NGBS Green or the International Code Council's *International Green Construction Code*	1.25
Passive Solar	
Orient a minimum of 50 percent of the single-family detached dwellings or lots in the development within 20 percent of the east-west axis for maximum passive solar exposure	1.50
Orient a minimum of 25 percent of the single-family detached dwellings or lots in the development within 20 percent of east-west for maximum passive solar exposure	0.75
Orient at least 25 percent of the nonresidential buildings with an axis oriented east-west for maximum solar exposure	1.00
Water Conservation and Water Quality	
Design all areas required to be landscaped in accordance with this Ordinance as an integrated system to meet on-site stormwater quality requirements for the lot through incorporation of low impact development design principles and use of best management practices for on-site stormwater management. These areas shall use vegetated pervious surfaces or other measures such as permeable pavements to infiltrate the capture of water volume on-site. Piped connections from roofs and downspouts and other impervious areas to storm drains are prohibited. Piped conveyances on lots must discharge to pervious areas.	2.00
The use of low impact development techniques, including but not limited to grass buffers and swales, bioretention (rain garden or porous landscape detention, sand filters, and permeable pavement systems), to meet stormwater managements requirements of this Ordinance.	1.00
Install a green/vegetated roof on the primary structure, or on at least 50 percent of primary buildings in a multi-building complex. Green/vegetated roofs shall include vegetation on at least 50 percent of the roof area (25 percent for renovated buildings) and shall use only plant materials permitted by Section 5.3, Landscaping and Buffer Standards.	2.00
All showerheads and handheld showers achieve 2.0 GPM or less	0.50
All lavatory faucets flow rate is 1.5 GPM or less at 60 PSI	0.50
All toilets are 1.28 GPF or less	0.50
All toilets have dual activated flushing	1.00
Include rainwater capture and re-use devices such as cisterns, rain filters, and underground storage basins for residential development with a minimum storage capacity of 500 gallons for every two residential units	0.50
Provide rain gardens or other appropriate stormwater infiltration system(s) that accommodate a minimum of 25 percent of the runoff	1.00
Vegetation	
Retain at least 20 percent of existing tree canopy of trees above 8" DBH	0.75
Remove all lawn or turf in favor of ground cover consisting of plant material or mulch	0.75
Limit turf grass to 40 percent of the landscaped area.	0.25

Table 5.11.D(2): Sustainable/Green Building Point System

	Points Earned
Urban Agriculture	
Provide a fenced, centrally located community garden space (which may be located as a rooftop garden) for residents and for urban gardening purposes at a ratio of 50 square feet per dwelling unit	1.00
Provide a minimum of one on-site composting station for every 25 units	0.25
Building Materials	
Source a minimum of 20 percent, by cost, of construction materials from recycled products or products manufactured, extracted, harvested, or recovered with 250 miles of the site	1.50
On 75 percent of all glazing on each building façade, use materials with a Threat Factor of 30 or less according to the American Bird Conservancy Threat Factor Rating System, or comparable materials	0.75
Universal Design	
Provide the following universal design features in 33 percent of the residential units in the development: • A no-step entry on an accessible route to the unit; • First floor kitchen, bathroom and a bedroom; • The following elements to allow maneuvering space: A 32" clear opening at doorways; A 36" clear passage; 42" wide hallways; and 30 X 48 clear space next to bathroom sink, tub/shower and toilet; • Blocking in bathroom walls to accommodate grab bars, and grab bars in first floor bathroom; and • Reachable outlets and switches. • Grab bars in first floor bathroom(s) by commode and in shower(s); • Handicap accessible shower in first floor bathroom(s); and • Raised toilet seats in first floor bathroom(s).	1.00
Provide the following universal design features in 66 percent of the residential units in the development: • A no-step entry on an accessible route to the unit; • First floor kitchen, bathroom and a bedroom; • The following elements to allow maneuvering space: A 32" clear opening at doorways; A 36" clear passage; 42" wide hallways; and 30 X 48 clear space next to bathroom sink, tub/shower and toilet; • Blocking in bathroom walls to accommodate grab bars, and grab bars in first floor bathroom; and • Reachable outlets and switches. • Grab bars in first floor bathroom(s) by commode and in shower(s); • Handicap accessible shower in first floor bathroom(s); and • Raised toilet seats in first floor bathroom(s).	1.75
Transportation	
Provide a minimum of five percent of required automobile parking spaces that are signed and reserved for hybrid/electric/low energy vehicles in preferred locations near the primary building entrance	0.25
Provide an electric vehicle (EV) level 2 charging station that is made available to those using the building	0.75
Provide an electric vehicle (EV) level 3 charging station that is made available to those using the building	1.00
Include showering and dressing facilities in nonresidential developments for employees using alternative forms of transportation	0.50
NOTES: [1] Standard for the Design of High-Performance Green Buildings, American Society of Heating, Refrigerating, and Air-Condition Engineers, 2014, as amended, or other appropriate ASHRAE standards, as amended.	

Table 5.11.D(2): Sustainable/Green Building Point System

	Points Earned
[2] Energy Standard for Buildings Except Low-Rise Residential, American Society of Heating, Refrigerating, and Air-Condition Engineers, 2016, as amended, or other appropriate ASHRAE standards, as amended.	

(3) DOCUMENTATION REQUIRED

Applicants shall provide documentation of techniques that will be used to satisfy the sustainable/green building standards of this section at the time of submittal of a development application. Documentation for items that may not be visually verified as part of an inspection may be provided in the form of invoices, receipts, or delivery confirmation for the items in question.

E. FAILURE TO INSTALL OR MAINTAIN SUSTAINABLE/GREEN BUILDING ELEMENTS FOR COMPLIANCE

Failure to install or maintain approved sustainable/green building elements that are to be provided to comply with this section is a violation of this Ordinance, and may result in revocation of the development approval or permit, and revocation of the authorization for use of green building incentives in accordance with Section 5.12, Sustainable/Green Building Incentives.

SECTION 5.12. SUSTAINABLE/GREEN BUILDING INCENTIVES

A. PURPOSE AND INTENT

The purpose of this section is to add further support to sustainable/green building practices in the City by providing incentives for developments that incorporate specific types of sustainable/green building features above the minimum required by Section 5.11, Sustainable/Green Building Standards. Specifically, this section is intended to provide incentives for developments that incorporate sustainable/green building features that support:

(1) Energy conservation;

(2) Alternative energy use;

(3) Water conservation;

(4) Water quality;

(5) Healthy landscaping;

(6) Alternate forms of transportation; and

(7) Urban agriculture.

B. APPLICABILITY

The incentives in this section are available to:

(1) New development in the following zoning districts:

a. Mixed-Use Activity Center District;

b. Center City District;

c. Mixed-Use Urban Corridor District;

d. Mixed-Use Suburban Corridor District;

e. Transit Oriented Development District;

f. Planned Development District;

g. Planned Development – Traditional Neighborhood Development District; and

h. Planned Development – Campus District.

(2) Any expansion of an existing development in the following zoning districts, where the expansion increases the development's gross floor area by 50 percent or more:

a. Mixed-Use Activity Center District;

b. Center City District;

c. Mixed-Use Urban Corridor District;

d. Mixed-Use Suburban Corridor District;

e. Transit Oriented Development District;

f. Planned Development District;

g. Planned Development – Traditional Neighborhood Development District; and

h. Planned Development – Campus District.

C. CONFLICT WITH NEIGHBORHOOD COMPATIBILITY STANDARDS

In cases where the incentives in this section conflict with the neighborhood compatibility standards in Section 5.8.C, the neighborhood compatibility standards shall control.

D. TIMING OF REVIEW

Review for compliance with the standards of this section shall occur during review of a development application for a conditional zoning (Section 2.5.A(3)), planned development (Section 2.5.A(4)), special use permit (Section 2.5.A(5)), site plan (Section 2.5.B(1)), minor subdivision (Section 2.5.B(2)), or major subdivision (Section 2.5.B(3)), as appropriate.

E. INCENTIVES

(1) Development integrating sustainable/green building features in accordance with this section shall be eligible for the following incentives. They shall be integrated into a development in addition to those included in accordance with Section 5.11, Sustainable/Green Building Standards:

a. A density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zone;

b. An increase in the maximum allowable height by up to one story or 14 feet beyond the maximum allowed in the base zone; and

c. An increase in the maximum allowable lot coverage by 10 percent beyond the maximum allowed in the base zone.

(2) Development may include a sufficient number of sustainable/green building features to take advantage of more than one type of incentive, but in no instance shall the amount of an incentive be increased or decreased (as appropriate) beyond the maximum listed in this section.

F. PROCEDURE

(1) Applicants seeking to use sustainable/green building incentives shall include a written request with the development application that demonstrates how compliance with the standards in this section will be achieved.

(2) Review for compliance and granting of requests for incentives in accordance with section shall occur during the review of a development application for a conditional zoning (Section 2.5.A(3)), planned development (Section 2.5.A(4)), special use permit (Section 2.5.A(5)), site plan (Section 2.5.B(1)), minor subdivision (Section 2.5.B(2)), or major subdivision (Section 2.5.B(3)), as appropriate.

(3) The decision-making body or person responsible for review of the development application shall also be responsible for the review of the sustainable/green building incentive request.

(4) The incentive(s) shall be based on the number of sustainable/green building features provided, in accordance with Table 5.12.F: Sustainable/Green Building Incentives, and Section 5.12.G, Menu of Sustainable/Green Building Features. To obtain the right to a particular incentive identified in the left column of Table 5.12.F: Sustainable/Green Building Incentives (for example, a density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zoning district), the development proposed is required to provide the minimum number of sustainable/green building features associated with the sustainable/green building features from both schedule A and schedule B in Table 5.12.F: Sustainable/Green Building Incentives (for example, for a density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zone, the proposed development is required to include two sustainable/green building features from Schedule A and four sustainable/green building features from Schedule B) in Table 5.12.G: Sustainable/Green Building Features.

(5) The sustainable/green building features used to obtain the individual type of incentive shall only be counted for that incentive. If an applicant wants to achieve a second type of incentive (for example, both the density bonus incentive and the lot coverage incentive), the proposed development shall include the minimum number of sustainable/green building features in Schedule A and Schedule B required for both incentives (two from Schedule A and four from Schedule B for the density bonus incentive, and, two from Schedule A and three from Schedule B for the lot coverage incentive, from Table 5.12.G: Sustainable/Green Building Features).

TABLE 5.12.F: Sustainable/Green Building Incentives

Type of Incentives	Minimum Number of Green Building Practices Provided	
	From Schedule A	From Schedule B
A density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zone	2	4
An increase in the maximum allowable height by up to one story or 14 feet beyond the maximum allowed in the base zoning district	2	3
An increase in the maximum allowable lot coverage by 10 percent beyond the maximum allowed in the base zoning district	2	3

G. MENU OF SUSTAINABLE/GREEN BUILDING FEATURES

One or more of the sustainable/green building features in Table 5.12.G: Sustainable/Green Building Features, may be offered by an applicant for proposed development in accordance with Table 5.12.F: Sustainable/Green Building

Incentives. The entry in the left-most column of Table 5.12.G: Sustainable/Green Building Features, indicates the number of Schedule A or Schedule B sustainable/green building practices that can be counted toward an incentive in Table 5.12.F: Sustainable/Green Building Incentives. (For example, an entry of "BBB" means that the sustainable/green building feature is credited as three sustainable/green building practices toward the minimum number of Schedule B practices in the right-most column of Table 5.12.F: Sustainable/Green Building Incentives).

Table 5.12.G: Sustainable/Green Building Features

SCHEDULE	TYPE OF GREEN BUILDING FEATURES
ENERGY CONSERVATION	
A	Meet ASHRAE standard for lighting [2]
A	Meet Energy Star standards for low-rise residential, or exceed ASHRAE efficiency standards by 15 percent [3]
BB	Home energy rating system (HERS) index greater than 90 and less than or equal to 95
BBB	HERS index greater than 85 and less than or equal to 90
A	HERS index greater than 75 and less than or equal to 85
AA	HERS index less than or equal to 75
BB	Stated water heater efficiency between 0.675 to 0.82
BBB	Stated water heater efficiency of 0.82 or more
BB	Air conditioner with stated efficiency greater than 14 SEER is included as standard
A	Air conditioner with stated efficiency greater than 16 SEER is included as standard
AA	Install a "cool roof" on a minimum of 50 percent of the single-family dwellings in the development or subdivision. The "cool roof" shall cover the entire roof of the dwelling.
AA	Install a "cool roof" on a minimum of 50 percent of all other types of residential dwellings in a development or any Group Living use. The "cool roof" shall cover the entire roof of an individual building
AA	Install a "cool roof" on 50 percent of a mixed-use or nonresidential development. The "cool roof" shall cover the entire roof
AA	Install a "cool roof" on 100 percent of a mixed-use or nonresidential development. The "cool roof" shall cover the entire roof
A	Use central air conditioners that are Energy Star qualified
A	Use only solar or tank-less water heating systems throughout the structure
B	Install automatic light shutoff systems in buildings three stories or taller.
B	Provide skylights in an amount necessary to ensure natural lighting is provided to at least 15 percent of the habitable rooms in the structure
B	Construct roof eaves or overhangs of three feet or more on southern or western elevations
B	Use a structure design that can accommodate the installation and operation of solar photovoltaic panels or solar thermal heating devices (including appropriate wiring and water transport systems)
ALTERNATIVE ENERGY	
AA	Generate 50 percent or more of energy on-site by alternative energy (e.g., solar wind, geothermal)
A	Pre-wire a minimum of 75 percent of residential dwelling units in the development for solar panels
A	Install small-scale wind energy conversion systems to provide electricity for 25 percent of single-family, duplex, or townhouse dwelling(s)
LEED ® CERTIFICATION OR EQUIVALENT	
AAA	Construct the principal building(s) to meet or exceed LEED ® Platinum certification or equivalent standards of the National Green Building Standard™/NGBS Green or the International Code Council's *International Green Construction Code*

Table 5.12.G: Sustainable/Green Building Features

SCHEDULE	TYPE OF GREEN BUILDING FEATURES
A	Construct the principal building(s) to meet or exceed LEED ® Silver certification or equivalent standards of the National Green Building Standard™/NGBS Green or the International Code Council's *International Green Construction Code*
BB	Construct the principal building(s) to meet or exceed LEED ® Bronze certification or equivalent standards of the National Green Building Standard™/NGBS Green or the International Code Council's *International Green Construction Code*
PASSIVE SOLAR	
A	Orient a minimum of 50 percent of the single-family detached dwellings or lots in the development within 20 percent of the east-west axis for maximum passive solar exposure
B	Orient a minimum of 25 percent of the single-family detached dwellings or lots in the development within 20 percent of the east-west axis for maximum passive solar exposure
B	Orient at least 25 percent of the nonresidential buildings with an axis oriented east-west for maximum solar exposure
WATER CONSERVATION AND QUALITY PROTECTION	
AAA	Design all areas required to be landscaped in accordance with this Ordinance and the Landscape Manual as an integrated system to meet on-site stormwater quality requirements for the lot through incorporation of low impact development design principles and use of best management practices for on-site stormwater management. These areas shall use vegetated pervious surfaces or other measures such as permeable pavements to infiltrate the capture of water volume on-site. Piped connections from roofs and downspouts and other impervious areas to storm drains are prohibited. Piped conveyances on lots must discharge to pervious areas.
AA	The use of low impact development techniques including but not limited to grass buffers and swales, bioretention,(rain garden or porous landscape detention, sand filters, and permeable pavement systems, to meet stormwater managements requirements of the County Code or Ordinances
BB	All showerheads and handheld showers are 2.0 GPM or less
BB	All lavatory faucets flow rate is 1.5 GPM or less at 60 PSI
BB	All toilets are 1.28 GPF or less
BB	All toilets have dual activated flushing
AAA	Install a green/vegetated roof on the primary building(s), or at least 50 percent of primary buildings in a multi-building complex – green/vegetated roofs shall include vegetation on at least 50 percent of the roof area (25 percent for renovated buildings) and shall use only plant materials permitted by the Landscape Manual
A	Include rain water capture and re-use devices such as cisterns, rain filters, and underground storage basins with a minimum storage capacity of 500 gallons for every two residential units
A	Provide rain gardens or other appropriate stormwater infiltration system(s) that accommodate a minimum of 25 percent of the runoff
VEGETATION	
A	Retain at least 20 percent of existing pre-development natural vegetation
A	Remove all lawn or turf in favor of ground cover consisting of plant material or mulch
URBAN AGRICULTURE	
A	Provide a fenced, centrally located community garden space (which may be located as a rooftop garden) for residents and for urban gardening purposes at a ratio of 50 square feet per dwelling unit

Table 5.12.G: Sustainable/Green Building Features

SCHEDULE	TYPE OF GREEN BUILDING FEATURES
B	Provide a fenced, community garden space for employees at an office, for gardening purposes at a ratio of 15 square feet per employee
UNIVERSAL DESIGN	
BBB	Provide the following universal design features in 33 percent of the residential units in the development: • A no-step entry on an accessible route to the unit; • First floor kitchen, bathroom and a bedroom; • The following elements to allow maneuvering space: A 32" clear opening at doorways; A 36" clear passage; 42" wide hallways; and 30 X 48 clear space next to bathroom sink, tub/shower and toilet; • Blocking in bathroom walls to accommodate grab bars, and grab bars in first floor bathroom; and • Reachable outlets and switches. • Grab bars in first floor bathroom(s) by commode and in shower(s); • Handicap accessible shower in first floor bathroom(s); and • Raised toilet seats in first floor bathroom(s).
A	Provide the following universal design features in 66 percent of the residential units in the development: • A no-step entry on an accessible route to the unit; • First floor kitchen, bathroom and a bedroom; • The following elements to allow maneuvering space: A 32" clear opening at doorways; A 36" clear passage; 42" wide hallways; and 30 X 48 clear space next to bathroom sink, tub/shower and toilet; • Blocking in bathroom walls to accommodate grab bars, and grab bars in first floor bathroom; and • Reachable outlets and switches. • Grab bars in first floor bathroom(s) by commode and in shower(s); • Handicap accessible shower in first floor bathroom(s); and • Raised toilet seats in first floor bathroom(s).
TRANSPORTATION	
A	Provide an electric vehicle (EV) level 3 charging station that is made available to those using the building
B	Provide an electric vehicle (EV) level 1 or 2 charging station that is made available to those using the building
B	Provide a minimum of five percent of required automobile parking spaces that are signed and reserved for hybrid/electric/low energy vehicles in preferred locations near the primary building entrance
B	Include showering and dressing facilities in nonresidential developments for employees using alternative forms of transportation

NOTES:

[1] "AA" means credited as provision of two schedule "A" features.
"AAA" means credited as provision of three schedule "A" features.
"BB" means credited as provision of two schedule "B" features.
"BBB" means credited as provision of three schedule "B" features.

Table 5.12.G: Sustainable/Green Building Features

Schedule	Type of Green Building Features
[2] Standard for the Design of High-Performance Green Buildings, American Society of Heating, Refrigerating, and Air-Condition Engineers, 2014, as amended, or other appropriate ASHRAE standards, as amended.	
[3] Energy Standard for Buildings Except Low-Rise Residential, American Society of Heating, Refrigerating, and Air-Condition Engineers, 2016, as amended, or other appropriate ASHRAE standards, as amended.	

H. FAILURE TO INSTALL OR MAINTAIN SUSTAINABLE/GREEN BUILDING PRACTICES

Failure to install or maintain approved sustainable/green building features that are to be provided to comply with this section is a violation of this Ordinance, and may result in revocation of the development approval or permit.

SECTION 5.13. TRAFFIC IMPACT ANALYSIS (TIA)

A. PURPOSE

The purpose of the traffic impact analysis (TIA) is to identify impacts on the City's roads from proposed development, and ensure those impacts are mitigated before or at the time the development occurs. The TIA will identify access improvements, near-site improvements, and on-site and off-site improvements that are needed to accommodate the proposed development and maintain the established level of service standards (LOS) on the roads in the City.

B. APPLICABILITY

(1) Unless exempted in Section 5.13.C, Exemptions, any new development, redevelopment, or change of use which is estimated to generate 100 or more external peak hour vehicle trips or 1,000 or more external daily vehicle trips shall submit a TIA with an application for a conditional rezoning, planned development, special use permit, site plan, major subdivision, or zoning clearance permit, whichever occurs first, in accordance with the requirements of this section.

(2) For redevelopment projects or changes of use, trip generation thresholds shall be defined as the number of net new trips anticipated to be generated by the proposed development over and above the number of trips generated by the current use of the site.

(3) Where a development is expected to generate less than 100 peak hour trips, but it is anticipated to adversely impact road segments or intersections within the City, the City Engineer may require a TIA.

(4) The TIA shall be prepared by a qualified transportation planner or professional engineer approved by the City Engineer. The expense of preparing the TIA is the responsibility of the applicant. The TIA shall be reviewed for accuracy and content by the City Engineer prior to its review by the City.

(5) Proposed development shall not be phased or subdivided in piecemeal fashion to avoid application of this TIA requirement. Two or more developments represented to be separate developments shall be aggregated and treated as a single development if the City Engineer determines they are part of a unified plan of development and physically proximate to one another, based on the following factors:

a. There is unified ownership, indicated by the fact that:

1. The same person has retained or shared control of the developments;

2. The same person has ownership or a significant legal or equitable interest in the developments; or

3. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.

b. There is a reasonable closeness in time between the completion of 80 percent of one development and the submission to the City of a development proposal for a subsequent development that is indicative of a common development effort.

c. The voluntary sharing of infrastructure that is indicative of a common development effort or that is designated specifically to accommodate the developments.

d. There is a common advertising scheme or promotional plan in effect for the developments.

e. Any information provided by the applicant that the project is not being phased or subdivided to avoid the requirements of this section.

(6) The requirement for, or absence of requirement for TIA submittal under this section shall not limit the City's ability to impose conditions of approval if authorized by this Ordinance for the particular type of development approval or permit.

(7) Development for which a TIA is required by NCDOT shall provide mitigation of traffic impacts in accordance with the requirements of this section or NCODT requirements, whichever results in more mitigation.

C. EXEMPTIONS

Any development for which the North Carolina Department of Transportation (NCDOT) requires a TIA to be prepared shall be exempted from submitting a TIA in accordance with this section. Instead, the City shall use the TIA required to be submitted by NCDOT in evaluating the traffic impacts of the proposed development on the roads in the City in accordance with the requirements of Section 5.13.F, TIA Standards, and Section 5.13.G, Mitigation.

D. IMPACT AREA FOR TIA

The impact area for analysis for a TIA required by the City shall be established at a scoping meeting in accordance with Section 5.13.E(1). The Impact Area for the TIA shall be based on the methodology used by NCDOT for determining the Impact Area for any TIA NCDOT requires, except the City Engineer may adjust the Impact Area if it is determined special geographical, road, land use, or related conditions potentially impact the traffic impact of the proposed development on roads in the City.

E. PROCEDURE

(1) Prior to submission of a TIA, the applicant (or the applicant's representative) shall schedule a scoping meeting with the City Engineer, at which the applicant and the City Engineer shall discuss a proposed Impact Area for the TIA based on the requirements of Section 5.13.D, Impact Area for TIA. The City Engineer may waive the scoping meeting requirement if the City Engineer determines other means of communication with the applicant are more appropriate. After the scoping meeting, as applicable, the applicant shall submit a proposed Impact Area for the TIA to the City Engineer. The City Engineer shall review the proposed Impact Area upon its receipt. The proposed impact Area shall be approved if it complies with the requirements of Section 5.13.D, Impact Area for TIA. The applicant shall not begin preparation of the TIA until the Impact Area is approved by the City Engineer.

(2) The TIA shall be submitted in conjunction with the application for which it is being prepared. The contents of the TIA shall generally follow the guidelines set forth by the Institute of Traffic Engineer's (ITE's) publication entitled Transportation Impact Analysis for Site Development.

a. The TIA shall include but not be limited to the following:

1. Site location map and site layout;

2. Exiting and proposed land uses;

3. Timing and phasing of the proposed development, by month and/or year, as applicable;

4. A narrative describing the project, including any special transportation-related impacts or considerations;

5. Traffic analysis information related to trip generation, peak hour impacts, and other factors evaluated to determine compliance with Section 5.13.F, TIA Standards; and

6. Any other information determined by the City Engineer to be necessary in order to evaluate whether the proposed development complies with the requirements of this section.

b. The TIA shall take into account the following demand factors:

1. Existing vehicular trips on the roads;

2. The vehicular trips projected to be generated from background traffic during the projected build-out of the proposed development, along with the traffic volumes from other approved but unbuilt development; and

3. The vehicular trips generated from the proposed development.

c. In addition, the TIA shall take into account the following other demand factors:

1. Pass-by trips, internal trip capture for integrated mixed-use projects (e.g., road and/or pedestrian connectivity); and

2. Any proposed transportation demand management system where adequate guarantees are provided by the applicant to the City, which ensure the proposed transportation demand management system will function as proposed for the life of the project. In addition, if the proposed development is designed and integrated with an adjacent mixed-use project, a credit for trips may be permitted.

d. The TIA shall also take into account the following existing or anticipated capacity measures:

1. Existing road segments and intersections;

2. Road and intersection improvements planned by the City, NCDOT (in the State Transportation Improvement Plan), or other parties, scheduled to be completed and available within three years of the approval of the proposed development and which either have or are reasonably certain to have all necessary governmental approvals and clearly have funding so that the three year timeframes will be met.

e. Finally, the TIA shall describe what, if any, road or other transportation facility improvements within the Impact Area are needed in order for the proposed development to comply with Section 5.13.F, TIA Standards, and Section 5.13.G, Mitigation. A TIA that does not identify the road and other transportation facility improvements within the Impact Area to comply with Section 5.13.F and Section 5.13.G shall be returned to the applicant as incomplete

(3) The City Engineer shall review the TIA upon its submission by the applicant and approve, approve with conditions, or deny the TIA based on the standards in Section 5.13.F, TIA Standards, and Section 5.13.G, Mitigation.

F. TIA STANDARDS

(1) The TIA shall be approved only upon a finding that the roads within the Impact Area will operate at or above the level of service standard (LOS) established in Table 5.13.F: Road Level of Service Standards,

for the specific roads in the Impact Area, no later than the time at which a certificate of occupancy is approved for the proposed development, and each phase of the proposed development.

TABLE 5.13.F: ROAD LEVEL OF SERVICE STANDARDS (LOS) [1]

Road Type	Level of Service Standard (LOS) – Peak Hour [1]		
	Rural [2]	Suburban [3]	Urban [4]
Freeway/Expressway (excluding I-85)	C	D	Not Applicable
Major Thoroughfare	C	D	Not Applicable
Minor Thoroughfare	C	D	E
Minor Arterial	C	D	E
Major Collector	C	D	E
Minor Collector	B	D	E
Local Road	B	C	E
Local Street	B	C	E

NOTES:

[1] LOS shall be based upon the volume-to-capacity ratios as established by the NCDOT. The traffic analysis shall be consistent with the assumptions and guidelines of the NCDOT, and the most recent version of the ITE Trip Generation Manual. For uses generating less than ten trips per day, the directional split of traffic leaving the site shall be deemed to be 50 percent in either direction. For all other applications, the directional split shall be based upon the TIA.

[2] Rural areas include lands in the following districts: AG and R1.

[3] Suburban areas include lands in the following zoning districts: R2, R4, R6, R7, R8, R18, O-I, GC, LI, HI, PD, and PD-C.

[4] Urban areas include lands in the following zoning districts: MU-N, MU-AC, CC, MU-SC, and PD-TND.

(2) In determining whether the LOS on the roads in the Impact Area (see subsection D above) are met or exceeded, the following vehicular trips shall be accounted for:

a. Existing vehicular trips on the roads;

b. The vehicular trips projected to be generated from background traffic during the projected build-out of the proposed development, along with the traffic volumes from other approved but unbuilt development; and

c. The vehicular trips generated from the proposed development.

G. MITIGATION

(1) If the TIA demonstrates any road with the Impact Area (see subsection D above) will fall below the established LOS for that road, the application with which the TIA is being considered shall only be approved if mitigation measures are provided that fully mitigate the impacts of the proposed development on the road(s) within the Impact Area.

(2) Mitigation, when required, shall fully result in the road(s) operating at the established LOS.

(3) Proposed mitigation measures that are required may be modified, if approved by the City Council in order to substantially achieve the intent of this section. A modification achieves the intent of this section where proposed mitigation provides measurable and beneficial surplus capacity (above and beyond that required to meet the minimum requirements) such that the surplus capacity may be counted toward credit in the mitigation of other impacted roads. The method of measurement considered in

determining the acceptability of such modifications will be the net effect on the roads within the Impact Area.

(4) Mitigation may also include applicant funding of road improvements on planned or funded City or NCDOT projects previously adopted, such that the transportation improvements can be advanced to mitigate the impacts of the proposed development. This funding mitigation may be accepted by the City Council only where it is demonstrated that it is a reasonable substitute for actual construction. Proposed mitigation shall be included as a condition of approval.

(5) Road improvements provided through mitigation in accordance with this section shall be completed and available within three years of the approval of the proposed development, unless expressly provided otherwise by the City Council. Any improvements not completed prior to the issuance of a certificate of occupancy, shall be bonded at 115 percent of the cost of the remaining required improvement(s), as reviewed and approved by the City Council. All necessary right-of-way for the required transportation improvements shall be acquired prior to the issuance of a certificate of occupancy.

(6) As an alternative to mitigation, the applicant may elect to phase the proposed development, reduce its density or intensity, or delay the project until the LOS standards are met as a result of constructed road or other transportation facility improvements by the City, NCDOT, or other party.

H. INTERGOVERNMENTAL COORDINATION

While the City coordinates with NCDOT and other appropriate governmental agencies on development proposals, it is the responsibility of the applicant to contact NCDOT to discuss access and traffic impact issues on state roads.

6. SUBDIVISION STANDARDS

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ARTICLE 6. SUBDIVISION STANDARDS

SECTION 6.1. GENERAL PROVISIONS

A. PURPOSE AND INTENT

The general purpose of this Article is to establish standards relating to the subdivision of land in the City in order to promote the public health, safety, and general welfare, and to implement the goals and policies of the City's adopted plans. More specifically, this Article is intended to:

(1) Ensure the orderly growth and development of the City;

(2) Ensure the layout or arrangement of subdivisions and land development conform to the requirements of this Ordinance and the City's plans, regulations, and maps;

(3) Provide for the coordination of transportation networks and utilities in subdivisions with external transportation facilities and utilities;

(4) Establish appropriate standards for street widths and grades;

(5) Ensure adequate easements and rights-of-way are provided for drainage and utilities;

(6) Provide for open space through the efficient design and layout of land; and

(7) Encourage creative subdivision design that accomplishes these purposes in an efficient, attractive, and environmentally sensitive manner.

B. APPLICABILITY

(1) Any subdivision requiring review and approval in accordance with Section 2.5.B(2), Minor Subdivision, or Section 2.5.B(3), Major Subdivision, shall comply with the standards and requirements in this article.

(2) Any deviations or variations from the standards in this article shall be in accordance with Section 2.5.D(1), Variance – Zoning, Section 2.5.D(2), Variance – Watershed Protection, or Section 2.5.D(3), Administrative Adjustment.

SECTION 6.2. GENERAL SUBDIVISION STANDARDS

A. COMPLY WITH APPLICABLE STANDARDS

(1) Subdivisions shall comply with all applicable standards in this Ordinance, including, but not limited to density and dimensional standards in Article 3: Zoning Districts, and standards in Article 5: Development Standards that pertain to subdivision, including Section 5.1, Mobility, Circulation, and Connectivity Standards; Section 5.3, Landscaping and Buffer Standards; Section 5.4, Open Space Set-Aside Standards; Section 5.7, Form and Design Standards; Section 5.10, Stormwater Management Standards; Section 5.11, Sustainable/Green Building Standards; and Section 5.12, Sustainable/Green Building Incentives.

(2) Subdivisions shall comply with all applicable standards in the LDSM.

(3) Subdivisions shall comply with the City's adopted Fire Code. Fire flows and hydrant locations shall be determined by the Kannapolis Fire Department.

B. STREET DESIGN

Public and/or private streets shall be designed in accordance with Section 5.1, Mobility, Circulation, and Connectivity Standards, and the LDSM.

C. UTILITIES

Standards for the design and installation of public utilities shall be in accordance with the LDSM.

D. PRIVATE ACCESS EASEMENTS

Any private access easement serving the lot, parcel, or tract acquired from intervening property owners shall comply with the following requirements:

(1) The easement shall have a minimum width of 12 feet, or, if use for ingress/egress and water or sewer, 20 feet;

(2) The easement shall have an all weather surface of gravel, concrete, brick, or asphalt with a minimum continuous width of ten feet and a minimum overhead clearance of 12 feet to ensure access of public service, utility, and emergency personnel and vehicles; and

(3) The recorded documents creating the easement shall:

a. Specify that public service, utility, and emergency personnel and vehicles shall have freedom of ingress and egress from the property;

b. Specify that utilities (i.e., natural gas, electricity, telephone, cable) may be installed within the easement;

c. Include a statement specifying the party responsible for maintaining the easement and its traveled surface; and

d. State that the easement shall be kept free and clear of any and all obstructions that would in any way impede vehicular traffic.

SECTION 6.3. LOT AND BLOCK DESIGN STANDARDS

A. PURPOSE AND INTENT

This Section establishes standards to guide the design and review of proposed developments involving the layout or development of lots and relationship to streets, alleys, pedestrian ways, and other public facilities.

B. BLOCK STANDARDS

All blocks shall comply with Section 5.1, Mobility, Circulation, and Connectivity Standards.

C. LOT STANDARDS

(1) GENERAL

a. Lots shall meet zoning district standards and shall be designed for their potential uses.

b. Side lot lines abutting a public or private right-of-way shall, to the extent practicable, run at right angles to the right-of-way line.

(2) CORNER LOTS

Side lot lines of lots abutting a public or private right-of-way shall, to the extent practicable:

a. Run at right angles to the right-of-way line; or

b. In the case of a cul-de-sac or curvilinear street right-of-way, radial to the curve.

(3) LOT FRONTAGE

a. Every lot resulting from a subdivision of land shall abut and have direct access to a publicly maintained street, other public right-of-way legally dedicated, or private street with a public access easement unless the lot faces open space and is accessed via a rear alley, or unless otherwise required or permitted in this section. Where a public street right-of-way was dedicated prior to January 1, 2000, and the street was never improved to City standards, access to up to one residential lot may be provided from the dedicated right-of-way if it is improved to City standards, except paving shall not be required.

b. Where a proposed subdivision includes frontage on a thoroughfare street, up to five lots in the subdivision may have access to the thoroughfare street, provided such access shall be provided by shared driveways to the extent practicable. Any additional lots in the subdivision shall be served by a newly constructed internal public street.

c. Frontage on a public street shall not be required for any of the following lots if an easement or other right-of-way providing access to the public street is recorded and submitted with the application for development approval:

1. Townhome lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the townhome lots;

2. Lots fronting on approved private streets;

3. Lots fronting onto open space with access provided by a rear alley; and

4. A lot of record existing on January 8, 2001 without public street frontage, if the resulting lots comply with all standards of the zoning district where they are located. The created lot may be developed only for one single-family residence and may not be subdivided.

(4) FLAG LOTS

Flag lots are allowed in subdivisions only in accordance with the following standards:

a. Flag lots may be used only when necessary to develop irregularly shaped properties or sites with physical limitations. In no case shall more than five percent of the lots in a subdivision be flag lots.

b. The minimum width of the "pole" portion of a flag lot shall be 12 feet, or, if used for ingress/egress and water or sewer, 20 feet.

(5) CUL-DE-SAC LOTS

Any lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:

a. Lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet;

b. Lot area equal to or greater than the minimum lot area for the zoning district where the lot is located (if a minimum lot area is specified); and

c. The minimum required lot width at the building line.

SECTION 6.4. CLUSTER SUBDIVISION STANDARDS

A. PURPOSE AND INTENT

These Cluster Subdivision standards provide an alternative to standard development practices. Cluster Subdivisions locate clusters of development on lots that are smaller than would otherwise be permitted under conventional development regulations, with the remaining land being retained as common open space. The permanent, common open space, legally dedicated through subdivision plat recordation and deed restriction, can be used for natural conservation and protection of water resources, and/or recreational facilities for community benefit. The cluster development option is intended to provide flexibility in the design of residential developments and achieve a quality of development that could not be achieved under conventional subdivision design. (See Figure 6.4.A: Illustration of Cluster Subdivision Concept). The standards in this section are intended to:

(1) Provide for the efficient use of land and the preservation of open space and farmland;

(2) Provide for development in harmony with the natural features of the land;

(3) Protect high value natural areas;

(4) Protect water resources by minimizing land disturbance and creation of impervious surfaces and stormwater runoff; and

(5) Encourage the efficient use of infrastructure.

Figure 6.4.A: Illustration of Cluster Subdivision Concept

B. APPLICABILITY

(1) Cluster Subdivisions shall comply with the standards in this section.

(2) Cluster Subdivisions shall be mandatory for all major subdivisions on parcels greater than 30 acres located in the Cluster Residential and Conservation Neighborhood character areas on the Future Land Use and Character Map in the Comprehensive Plan.

(3) Cluster Subdivisions are permitted outside of areas specified in subsection (2) above, only in accordance with an approved conditional zoning, planned development, or special use permit for lands in the AG, R1, R2, or R4 districts:

C. GENERAL STANDARDS

(1) A minimum of 30 percent of the total project area shall be set aside as common open space in accordance with subsection D below.

(2) The minimum lot size, minimum lot width, and minimum building setbacks in the base zoning district may be reduced by up to 20 percent.

(3) The maximum residential density and maximum impervious surface area of a Cluster Subdivision shall be that of the base zoning district established in Article 3: Zoning Districts.

(4) Lots shall be organized into clusters in accordance with subsection E below.

(5) The development shall be served by a public water system and a public sewer system.

D. OPEN SPACE

(1) Required open space set-asides shall count toward the minimum open space set-aside requirements in Section 5.4, Open Space Set-Aside Standards, and shall comply with all other standards in Section 5.4, Open Space Set-Aside Standards.

(2) In Residential and Planned Development districts, a maximum of 25 percent of the total open space set-aside area may consist of lands that the Planning Director determines cannot be developed because they contain wetlands, bodies of water, dedicated easements or rights-of-way (except those existing to only protect underground utilities such as water or sewer lines), or similar features.

(3) Open space set-asides designed for active recreation (e.g., tennis courts) shall be set back a minimum of 60 feet or screened from view from residential lots.

(4) The following notation shall be placed on all open space set-asides on the subdivision plat: "Designated open space, not to be further subdivided or used for future building lots."

E. LANDSCAPING AND BUFFERING

A planted buffer providing the minimum visual separation of a Type B perimeter buffer yard (see Section 5.3.G(3), Buffer Types Defined) shall be established around the entire perimeter of a Cluster Subdivision and shall be designated as either undisturbed, conservation easements, or designated open space on a subdivision plat. The following additional provisions shall apply to any buffer yard:

(1) Buffer yards designated as common open space on a subdivision plat may be credited toward required open space set-asides.

(2) Except in active recreation areas, existing healthy trees over 12 inches in diameter in areas designated as open space set-asides shall be preserved and protected in the same manner as specimen trees under Section 5.3.J(9), Tree Protection During Construction.

(3) Landscaping and buffering shall comply with the requirements of Section 5.3, Landscaping and Buffer Standards.

SECTION 6.5. GUARANTEES, BONDS, AND SURETIES

A. INSPECTION OF IMPROVEMENTS

(1) During the preparation of land and the installation of public improvements and site improvements, as appropriate, periodic inspections shall be made to ensure conformity with the approved plans, specifications, and standards. Appropriate agencies of the City and state may make inspections at any time during the progress of work.

(2) All improvements required by this article shall be inspected prior to acceptance by the City. The applicant shall provide the Director of Engineering with written reports of each final inspection made by other individuals or agencies.

(3) Prior to beginning construction, the applicant shall arrange with the Director of Engineering a pre-construction meeting for the purpose of coordinating construction activities.

(4) The applicant shall notify the Director of Engineering of the commencement of construction of improvements one full working day prior to commencement. Inspections shall be required at each of the following stages of construction or as otherwise determined through an owner contract or development improvement agreement:

a. Site grading/erosion control completion;

b. Underground utility installation;

c. Subgrade preparation prior to aggregate base installation;

d. Aggregate base compaction;

e. Concrete curb and gutter installation;

f. Bituminous binder placing; and

g. Final surfacing prior to seal coat.

(5) The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.

B. ACCEPTANCE OF IMPROVEMENTS

(1) Approval of the installation of improvements by the Director of Engineering shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in any subdivision shall, in no case, serve to bind the City to accept such improvements for maintenance, repair, or operation. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

(2) The specific standards for acceptance of easements shall be subject to the technical design standards of this Ordinance, the LDSM, and any other adopted policy or manual of the City. All easements shall be in full compliance with this Ordinance prior to acceptance.

(3) The City shall not have any responsibility with respect to any street, or other improvement, even if it is used by the public, unless the street or other improvements have been accepted by the City.

(4) When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this article, and the applicant has submitted as-built drawings to the Director of Engineering, the City Council shall consider accepting the improvements for maintenance by the City, unless the improvements are maintained by another entity.

(5) These provisions shall not be construed to relieve the subdivider or the subdivider's agent or contractor of any responsibility in notifying any agency for the City of completed work and formal request for inspection of same. The agency having jurisdiction shall inspect and approve all completed work prior to the release of any applied performance sureties.

C. SITE CLEANUP

The applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision site and from any lot, street, public way or property therein or adjacent thereto. Construction debris shall be disposed of in accordance with state and local regulations.

D. SUBDIVISION IMPROVEMENT AGREEMENTS

(1) The Director of Engineering shall be responsible for the review and approval of all residential Subdivision Improvement Agreements.

(2) The Director of Engineering may delay the requirement for the completion of required improvements prior to recordation of the final plat if the applicant enters into a Subdivision Improvement Agreement by which the applicant covenants and agrees to complete all required on-site and off-site public improvements no later than one year following the date upon which the final plat is recorded. Such period may be extended for up to an additional 180 days upon its expiration, at the discretion of the Director of Engineering. The applicant shall bear the responsibility to prepare a Subdivision Improvement Agreement. The City Attorney shall approve any Subdivision Improvement Agreement as to form.

(3) In order to provide for emergency access, no Zoning Clearance Permit is to be issued until the base course for the streets within the applicable phase for which a final plat is proposed has been installed.

(4) At the discretion of the Director of Engineering, the City may enter into a Subdivision Improvement Agreement with the applicant for a residential development containing multiple final plats concerning the timing and sequence of roadway, water, wastewater, drainage, and park or open space dedication and improvements. Notwithstanding any provision in this Ordinance to the contrary, the Subdivision Improvement Agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.

(5) Whenever the Director of Engineering permits an applicant to enter into a Subdivision Improvement Agreement, the applicant shall be required to provide a performance guarantee to ensure completion of the required public improvements. The performance guarantee shall be in the form of an irrevocable letter of credit, performance bond (subject to approval by the City Attorney and the Director of Engineering), or cash escrow.

(6) The performance guarantee shall be in an amount determined by the Director of Engineering to be 125 percent of the cost of the improvements in the approved construction plan and sufficient to cover all promises and conditions contained in the Subdivision Improvement Agreement. The applicant shall submit an executed contract from a North Carolina licensed contractor, made assignable to the applicant and the City. The Director of Engineering shall have the opportunity to review and accept the estimates of work to be completed prior to approval.

(7) In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.

(8) The issuer of any surety bond shall be subject to the approval of the City Attorney and the Director of Engineering.

(9) If the performance guarantee is provided in the form of a cash escrow, the applicant shall deposit with the City Attorney a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Director of Engineering as required by Section 6.5.D(6).

(10) The cash escrow account shall accrue to the City for administering the construction, operation, and maintenance of the improvements.

(11) Where oversized facilities are required, the Director of Engineering and applicant shall specify a reimbursement procedure in the Subdivision Improvement Agreement.

(12) The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to competition of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125 percent of the estimated cost of incomplete improvements for the duration necessary to complete the required improvements.

(13) Upon completion of all improvements as covered by the Subdivision Improvement Agreement, the Director of Engineering shall inspect the work. If the Director of Engineering determines that the work is satisfactory and complete, the performance guarantee shall be released. The Director of Engineering shall also require evidence from the subdivider that all contractors have been paid in full prior to the release of the performance guarantee. Upon approval, the Director of Engineering shall permit either a one-time release or incremental release of the performance guarantee.

E. FAILURE TO COMPLETE IMPROVEMENTS

If a Subdivision Improvement Agreement has been executed, security has been posted, and required public improvements are not installed pursuant to the terms of the Agreement, the Director of Engineering may do any one or more of the following:

(1) Declare the Agreement to be in default 30 days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

(2) Obtain funds pursuant to the surety and use them for the completion of the public improvements; or

(3) Exercise any other rights available under the law.

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ARTICLE 7. NONCONFORMITIES

SECTION 7.1. GENERAL PROVISIONS

A. PURPOSE AND SCOPE

(1) Nonconformities are uses of land or other development (including structures, lots, signs, parking, and landscaping) that were lawfully established before this Ordinance was adopted or amended, that are rendered non-compliant with this Ordinance. This article allows such uses, structures, lots, signs, parking, and landscaping to continue, subject to the requirements of this Article.

(2) The purpose and intent of this Article is to recognize the interests of the landowner in continuing to use the land, but to limit the alteration, expansion, reconstruction, and reestablishment of nonconformities to ensure that the nonconformity does not increase and the purposes of this Ordinance are achieved.

B. AUTHORITY TO CONTINUE

(1) Any nonconforming use, structure, lot, sign, parking, or landscaping may be continued, repaired, and maintained in accordance with this article. Where a lot includes more than one nonconformity (e.g., nonconforming structure and nonconforming use), each nonconformity may be continued in accordance with the requirements of this article.

(2) Any alteration, expansion, reconstruction, reestablishment, or relocation of a nonconformity shall comply with the requirements in this article.

C. CERTIFICATE OF NONCONFORMITY ADJUSTMENT REQUIRED

Approval of a certificate of nonconformity adjustment in accordance with Section 2.5.E(4), Certificate of Nonconformity Adjustment, is required prior to:

(1) Any change of use of a structure or land from one nonconforming use to another nonconforming use;

(2) Any expansion of or addition to structural parts of a nonconforming structure; and

(3) Restoration or reconstruction of any structure housing a nonconforming use, except the replacement of a manufactured home in accordance with Section 7.2.E, Nonconforming Manufactured Home, or where the structure is damaged or destroyed by fire, storm, or other casualty (see Section 7.2.D, Reconstruction of Structure Housing Nonconforming Use, and Section 7.3.B, Reconstruction of Nonconforming Structure).

D. DETERMINATION OF NONCONFORMITY STATUS

In all cases, the burden of establishing that a nonconformity lawfully exists shall fall on the owner of the land on which the nonconformity is located.

E. CHANGE OF TENANCY OR OWNERSHIP

A change of tenancy or ownership shall not, in and of itself, affect the nonconformity status of a structure, lot, sign, or site feature.

F. MINOR REPAIRS AND MAINTENANCE

No provision of this Ordinance shall be construed to prohibit the routine repair and maintenance of structures housing nonconforming uses, nonconforming structures, nonconforming lots, nonconforming signs, or nonconforming site features, in order to keep the structure, lot, sign, or site feature in the same

condition as when the nonconformity was established; to accomplish modifications necessary for compliance with stormwater management regulations or the Americans with Disabilities Act (ADA); or to bring to a safe condition any structure declared to be unsafe by any official charged with protecting the public safety, health, or welfare.

SECTION 7.2. NONCONFORMING USES

A. EXPANSION OR ENLARGEMENT OF NONCONFORMING USE

(1) Except as otherwise provided in subsection (3) below, a nonconforming use shall not be expanded or enlarged unless such expansion or enlargement complies with all applicable zoning district dimensional standards.

(2) Except as otherwise provided in subsection (3), structural alterations shall not be made to a structure housing a nonconforming use, except as necessary:

a. To comply with the requirements of federal, state, or local laws or regulations;

b. To accommodate a conforming use; or

c. To make the structure conform to the applicable dimensional regulations.

(3) Any single-family dwelling that is nonconforming as to use may be expanded in any zoning district if the expansion complies with the dimensional standards for the R8 District.

B. DISCONTINUANCE OR ABANDONMENT OF NONCONFORMING USE

(1) Subject to subsection (2) below, the discontinuance of day-to-day operation of a any nonconforming use for a continuous period of 180 days, regardless of the reason or intent of the discontinuance, shall constitute abandonment of the use, and the use shall not be subsequently reestablished.

(2) Time spent renovating or repairing a structure that houses a nonconforming use is not considered a discontinuance of the use, provided:

a. All appropriate permits are obtained;

b. The renovation or repair is completed within 18 months after commencement of the repair or renovation;

c. The use is reestablished within one month after completion of the renovation or repairs; and

d. Any discontinuance of use caused by government action without the contributing fault by the nonconforming use shall not be considered in determining the length of discontinuance.

(3) The Planning Director shall make determinations as to whether an existing nonconforming use has been abandoned in accordance with subsection (1) above. The Planning Director's determination may be appealed to the Board of Adjustment by the affected property owner within 30 days of the Planning Director's determination.

C. CHANGE OF USE

(1) Except as provided in subsection (2) below, a nonconforming use may not change to, or change to include, another use unless the new use is allowed in the zoning district in which the nonconforming use is located. Where such a change occurs, the new use shall comply with all standards in Article 4: Use Regulations, and Article 5: Development Standards; however, where the structure housing the new use is a nonconforming structure or the lot on which the new use is located is a nonconforming lot, those

nonconformities may continue in accordance with Section 7.3, Nonconforming Structures, and Section 7.4, Nonconforming Lots of Record, as applicable. Once changed to a conforming use, the nonconforming use shall not be reestablished on the parcel.

(2) A Nonconforming use may be changed to another nonconforming use which more closely approximates permitted uses in the zoning district, with respect to scale and intensity of use, upon issuance of a certificate of nonconformity adjustment in accordance with Section 2.5.E(4), Certificate of Nonconformity Adjustment.

D. RECONSTRUCTION OF STRUCTURE HOUSING NONCONFORMING USE

(1) Except as otherwise provided in subsection (2) below, the restoration or reconstruction of a structure housing a nonconforming use is allowed only if a certificate of nonconformity adjustment for the restauration or reconstruction is approved in accordance with Section 2.5.E(4), Certificate of Nonconformity Adjustment, and only if the restored or reconstructed structure complies will the dimensional standards of the district in which it is located.

(2) Where a structure housing a nonconforming use is damaged or destroyed by fire, storm, or other casualty, the structure may be reconstructed and the nonconforming use may be continued if the reconstruction does not increase the extent of nonconformity.

E. NONCONFORMING MANUFACTURED HOME

A manufactured home that is nonconforming solely because it is located outside the MHO District may be replaced by another manufactured home that complies with Section 4.2.D(3)a.2(b) through Section 4.2.D(3)a.2(e) in Section 4.2.D(3)a.2, Manufactured Home.

SECTION 7.3. NONCONFORMING STRUCTURES

A. EXPANSIONS AND ADDITIONS

(1) An expansion of or addition to structural parts of a nonconforming structure is allowed only if:

a. The expansion or addition complies with all applicable zoning district dimensional standards; and

b. A certificate of nonconformity adjustment is approved for the expansion or addition in accordance with Section 2.5.E(4), Certificate of Nonconformity Adjustment.

(2) Repairs to nonconforming structures that do not include an expansion or addition in accordance with subsection (1) above, shall not require a certificate of nonconformity adjustment.

(3) For purposes of subsection (1) above, the erection of multiple ground signs in an existing development containing multiple uses shall be considered an expansion or addition.

B. RECONSTRUCTION OF NONCONFORMING STRUCTURE

(1) Except as otherwise provided in subsection (2) below, a nonconforming structure that is removed or destroyed may be reconstructed only if it complies with the standards in this Ordinance.

(2) A nonconforming structure that is damaged or destroyed by fire, storm, or other casualty may be restored or reconstructed if the restoration or reconstruction does not increase the extent of nonconformity. Such reconstruction shall not require a certificate of nonconformity adjustment.

SECTION 7.4. NONCONFORMING LOTS OF RECORD

A. USES ALLOWED ON NONCONFORMING LOTS

(1) Subject to subsections (2) and (3) below, any lot of record that does not comply with the dimensional standards for the district in which it is located (nonconforming lot) may be used for any use allowed in the district, if the use complies with all other applicable standards in this Ordinance, except as otherwise provided in this article.

(2) In any Residential district, one single-family attached dwelling may be located on any nonconforming lot, provided the dwelling complies with the dimensional standards of the zoning district in which it is located to the extent practicable.

(3) Use of a nonconforming lot in accordance with subsection (1) or subsection (2) above, is prohibited where the nonconforming lot shares continuous frontage with abutting lots in the same ownership, unless the lots are combined or recombined to create one or more conforming lots, or lot(s) that are less nonconforming.

SECTION 7.5. NONCONFORMING SIGNS

A. MAINTENANCE AND REPAIR

Any sign lawfully erected and maintained prior to July 1, 2022, that does not comply with this Ordinance may remain in accordance with this Article. Nonconforming signs shall be maintained and repaired in accordance with Section 5.9.C(3), Construction and Maintenance, and Section 7.1.F, Minor Repairs and Maintenance.

SECTION 7.6. NONCONFORMING PARKING AND LANDSCAPING

A. Where there is nonconforming parking and/or landscaping on a site where a building addition or expansion is proposed, the nonconforming parking or landscaping shall be brought into compliance with the standards of this Ordinance to the extent required by Section 5.2.B(1)b, Addition or Expansion, and/or Section 5.3.B(1)b, Addition or Expansion, as applicable.

B. Where there is nonconforming parking and/or landscaping on a site where a change of use is proposed, the parking and/or landscaping, as applicable, shall be brought into compliance with this Ordinance to the maximum extent practicable, taking into consideration Section 5.2.E(2), Off-street Parking Alternatives, and Section 5.3.B(3), Alternative Landscaping.

SECTION 7.7. NONCONFORMITIES CREATED BY EMINENT DOMAIN OR VOLUNTARY DONATION OF LAND FOR A PUBLIC PURPOSE

If a nonconforming lot or structure is created due to eminent domain or voluntary donation of a portion of the lot for a public purpose that results in a nonconformity, the lot or structure, as applicable, shall be deemed conforming upon the Planning Director approving a site plan for development of the lot that demonstrates the development existing or proposed on the lot:

A. Complies with Section 4.2.B(5), Principal Use Table;

B. Complies with the dimensional standards of the zoning district in which it is located, to the maximum extent practicable;

C. Complies with the off-street parking and landscaping standards of this Ordinance, to the maximum extent practicable;

D. Complies with all other standards and requirements of this Ordinance; and

E. Is designed and configured in a way that is compatible with surrounding development.

8. ENFORCEMENT

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ARTICLE 8. ENFORCEMENT

SECTION 8.1. PURPOSE

The purpose of this article is to establish procedures to ensure compliance with this Ordinance and to obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations. This article encourages the voluntary correction of violations, where possible.

SECTION 8.2. COMPLIANCE REQUIRED

A. Compliance with all the procedures, standards, and other provisions of this Ordinance is required by any person owning, developing, managing, using, or occupying land or structures in the City.

B. All persons shall obtain all development approvals and permits required by this Ordinance prior to development. Development approvals and permits issued by a decision-making body or person authorize only the use, arrangement, location, design, density or intensity, and development set forth in those development approvals and permits.

SECTION 8.3. VIOLATIONS

A. GENERALLY

Any failure to comply with this Ordinance, or the terms or conditions of any development approval, permit, or other authorization granted in accordance with this Ordinance, is a violation of this Ordinance as provided in this article.

B. TYPES OF VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance:

(1) To place any use, structure, or sign upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.

(2) To subdivide land in violation of this Ordinance, or transfer or sell land by reference to, exhibition of, or any other use of an unapproved plat, which shall be a Class I misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The City may bring an action for injunction of:

- **a.** Any illegal subdivision;
- **b.** Transfer of land;
- **c.** Conveyance of land; or
- **d.** Sale of land.

(3) To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure or sign, or to engage in development of any land in contravention of any provisions of this Ordinance. (This section is not intended to address legal nonconforming uses or structures.)

(4) To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.

(5) To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by this Ordinance.

(6) To increase the intensity of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Ordinance.

(7) To remove, deface, obscure or otherwise interfere with any notice required by this Ordinance.

(8) To fail to remove any sign or other improvement installed, created, erected, or maintained in violation of this Ordinance, or for which the permit, approval, permission, or other authorization has lapsed. (This section is not intended to address legal nonconforming uses or structures.)

(9) To otherwise undertake any development or to establish any use in a manner which does not comply with this Ordinance.

C. CONTINUING VIOLATIONS

(1) Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance.

(2) Any violation of the previous Unified Development Ordinance and other regulations replaced by this Ordinance shall continue to be a violation under this Ordinance, in accordance with Section 1.8.A, Violations.

(3) Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.

SECTION 8.4. RESPONSIBLE PERSONS

Any person who violates this Ordinance is subject to the remedies and penalties set forth in this Article. For purposes of this section, a "person" subject to the remedies and penalties established in this Article may include the owner, tenant, or occupant of the land or structure that is in violation of this Ordinance, and any architect, engineer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation.

SECTION 8.5. ENFORCEMENT GENERALLY

A. RESPONSIBILITY FOR ENFORCEMENT

(1) The Planning Director shall be responsible for enforcing the provisions of this Ordinance in accordance with state law, except the Director of Engineering shall have the sole responsibility of enforcing Section 5.10, Stormwater Management Standards. Whenever this Ordinance refers to the Planning Director or Director of Engineering, it includes a designee of such.

(2) The Planning Director and Director of Engineering shall establish policies, rules, and procedures to implement this Article.

(3) The Planning Department shall conduct a Code Enforcement Program to assure continuing compliance with this Ordinance.

B. INSPECTIONS

On presenting proper credentials, the Planning Director or Director of Engineering, as applicable, may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance. These inspections shall be carried out during normal business hours unless the Planning Director or Director of Engineering, as applicable, determines there is an emergency necessitating inspections at another time.

Areas not open to the public may be inspected if appropriate consent is given or if an inspection warrant is secured.

C. COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written (electronic or hardcopy) complaint. The complaint, stating fully the cause and basis therefore shall be filed with the Planning Director, or in the case of complaints pertaining Section 5.10, Stormwater Management Standards, to the Director of Engineering. The Planning Director or Director of Engineering, as applicable, shall properly record such complaint, investigate, and take appropriate action in accordance with subsection D below.

D. ENFORCEMENT PROCEDURE

(1) INVESTIGATION OF COMPLAINT

On receiving a written complaint, the Planning Director or Director of Engineering, as applicable, shall investigate the complaint and determine whether a violation of this Ordinance exists.

(2) NOTICE OF VIOLATION

a. On finding that a violation of this Ordinance exists, whether from an investigation of a written complaint or otherwise, the Planning Director or Director of Engineering, as applicable, shall provide written notification of the violation, by personal service, certified or registered mail, or other means authorized by state law, to the owner of the property on which the violation exists and the person causing or maintaining the violation and any applicant for any relevant permit or holder of any relevant permit. The person providing the notice shall certify to the City that the notice was provided, and the certification shall be deemed conclusive in the absence of fraud. Such notification shall:

1. Describe the location of the violation, including the address or other description of the site;

2. Describe the nature of the violation;

3. State the actions necessary to abate the violation;

4. Specify that a second citation shall incur a civil penalty, together with costs and attorney fees; and

5. Order that the violation be corrected within a specified reasonable time period stated in the notice of violation.

b. The notice of violation shall state what course of action is intended if the violation is not corrected with the specified time limit. The notice of violation shall also advise the violators of their rights to appeal the notice of violation to the Board of Adjustment in accordance with Section 2.5.D(4), Appeal of Administrative Decision.

c. On receiving a written request for extension of the time limit for correction specified in the notice of violation, and upon determining the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Planning Director or Director of Engineering, as applicable, may, for good cause shown, grant a single extension of the time limit.

d. If the owner of the property cannot be located or determined, the Planning Director shall post a copy of the notice on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

e. The Planning Director or Director of Engineering, as applicbale, may issue a stop work order to the person(s) violating this Ordinance. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for the stop work order, and the conditions under which the work may be resumed. A copy of the stop order shall be delivered via personal delivery, electronic mail, or First Class Mail to the holder of the permit and the owner of the property (if the owner is not the holder of the permit). The person providing the notice shall certify to the City that the notice was provided, and the certification shall be deemed conclusive in the absence of fraud. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(3) APPLICATION OF REMEDIES AND PENALTIES

On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation in accordance with Section 2.5.D(4), the Planning Director shall take appropriate action, as provided in Section 8.6, Remedies and Penalties, to correct and abate the violation and to ensure compliance with this Ordinance.

(4) EMERGENCY ENFORCEMENT

Where violations of this Ordinance constitute an emergency situation resulting in an immediate threat to the health, or safety of the public, or will create increased problems or costs to the public for the provision of City services if not remedied immediately, the Planning Director or Director of Engineering, as applicable, may use the enforcement powers available under this Article without prior notice, but the Planning Director or Director of Engineering, as applicable, shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who can be contacted and has an identifiable relationship to the violation and/or owner.

SECTION 8.6. REMEDIES AND PENALTIES

A. REMEDIES AVAILABLE TO CITY

The Planning Director or Director of Engineering, as applicable, may take any one or more of the following actions to remedy a violation of this Ordinance.

(1) DENY OR WITHOLD PERMITS

a. The Planning Director or Director of Engineering, as applicable, may withhold development approvals or permits if there is:

1. A repeat violation of this Ordinance as set forth in Section 8.6.B(1)b; or

2. There is a condition or qualification of approval that has not been met.

b. The Planning Director or Director of Engineering, as applicable, may deny or withhold development approvals or permits for land or structure or improvements owned or being developed by a person who owns, developed or otherwise caused an uncorrected repeat violation of this Ordinance. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.

(2) REVOKE PLAN, PERMIT, OR OTHER APPROVAL

Any development approval or permit approved under this Ordinance may be revoked in accordance with N.C.G.S. Section 160D-403(f).

(3) INJUNCTION AND ABATEMENT

This Ordinance may be enforced by any means or any remedy provided for in state law. An action for injunction of any illegal subdivision, transfer, conveyance, or sale of land may be prosecuted by the Planning Director in accordance with state law.

(4) CORRECTION AS PUBLIC HEALTH NUISANCE, COSTS AS LIEN, ETC.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the appropriate geographic limits as prescribed by state law, the Planning Director or Director of Engineering, as applicable, with the written authorization of the City Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) DISCONTINUANCE OF WATER SERVICE

In accordance with state law, water service may be temporarily discontinued for willful disregard of Section 5.10, Stormwater Management Standards. All applicable penalty fees may be applied in the event of service suspensions. In the event of continued gross noncompliance with Section 5.10, Stormwater Management Standards, removal of the meter and service will be deemed proper and service will be discontinued. Connection fees and deposits will be forfeited.

(6) REMOVAL OF SIGNS

Any sign installed or placed on public property or within a public right-of-way, except as permitted by Section 5.9, Sign Standards, shall be forfeited to the public and is subject to confiscation. The Planning Director shall have the right to recover from the owner or person placing such a sign, the full costs of removal and disposal of the sign.

(7) OTHER REMEDIES

The City shall have such other remedies provided by state law for the violation of zoning, subdivision, sign, or related Ordinance provisions.

B. PENALTIES FOR VIOLATION

(1) CIVIL PENALTIES

Civil penalties for violations other than a violation of Section 5.10, Stormwater Management Standards, shall comply with subsections a and b below.

a. FIRST OFFENSE

1. Any violation occurring once within a 36-month period shall be considered a first offense.

2. Upon the expiration of the deadline stated in the notice of violation, the violator shall be subject to a civil penalty of $100.00 for each day that the violation remains on the property without further notice.

3. If a violation continues to exist or the violator fails to pay the penalties, the City shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies.

b. REPEAT OFFENSE

1. Any violation of reoccurring on the same property by the same violator within a 36-month period of the previous violation shall be considered a repeat offense, if the reoccurrence is a violation of the same Article of this Ordinance.

2. A notice of violation shall be issued by the Planning Director, which shall have an immediate civil penalty of $300.00. No warning period shall be granted, provided that proper notice was given for the previous violation. For each day the repeat violation remains, the violator shall be subject to a civil penalty of $300.00.

3. If a violation continues to exist or the violator fails to pay the penalties, the City shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. Procedures for issuance, service, and collection of non-paid penalties shall be as set forth in Section 1-14 of the City of Kannapolis Code of Ordinances. The collection of a penalty pursuant this section shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in this section.

(2) CIVIL PENALTIES FOR VIOLATION OF STORMWATER REGULATIONS

Any person, firm, or corporation violating the mandatory provisions of Section 5.10, Stormwater Management Standards, shall be issued a civil citation pursuant to Section 1-14 of the Kannapolis City Code. The penalty shall be $100.00 for residential customer violations and $300.00 for commercial or industrial customer violations. The penalty assessed against a stormwater customer shall be added to the water bill and shall be paid in the same manner as the water bill. The inability to pay the penalty fees is not relevant to a customers' liability for violating this section. Partial payments for City enterprise services shall be first applied in accordance with City policy. The provisions of Section 5.10, Stormwater Management Standards, may also be enforced by actions for abatement or injunction.

C. OTHER POWERS

In addition to the enforcement powers specified in this Section, the City Council may exercise any and all enforcement powers granted by state law.

D. REMEDIES CUMULATIVE

The remedies and enforcement powers established in this Article shall be cumulative, and the City may exercise them in any order.

9. RULES FOR CONSTRUCTION, INTERPRETATION, AND MEASUREMENT

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ARTICLE 9. RULES FOR CONSTRUCTION, INTERPRETATION, AND MEASUREMENT

SECTION 9.1. RULES OF CONSTRUCTION

A. MANDATORY AND DISCRETIONARY TERMS

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

B. CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items, conditions, provisions or events apply;

(2) "Or" indicates that one or more of the connected items, conditions, provisions, or events apply; and

(3) "And/or" indicates that one or more of the connected items, conditions, provisions, or events apply.

C. TENSES AND PLURALS

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice-versa.

D. TERM NOT DEFINED

If a term used in this Ordinance is not defined in Article 10 or elsewhere in this Ordinance, the Planning Department as appropriate, shall have the authority to provide a definition based on the definitions use in accepted sources including, but not limited to, *A Planners Dictionary*, *A Glossary of Zoning, Development, and Planning Terms*, and *A Survey of Zoning Definitions* (all published by the American Planning Association), as well as general dictionaries such as *Merriam-Webster*, *American Heritage*, *Webster's New World*, and *New Oxford American* dictionaries.

E. COMPUTATION OF TIME

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the day subsequent that is not a Saturday, Sunday, or holiday observed by the City. References to days are calendar days unless otherwise stated.

SECTION 9.2. GENERAL RULES FOR INTERPRETATION

A. MEANINGS AND INTENT

All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.3, General Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in this article and Article 10, the specific section's meaning and application of the term shall control.

B. HEADINGS, ILLUSTRATIONS, AND TEXT

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are generally provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

C. LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

D. REFERENCES TO OTHER REGULATIONS/PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall mean a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

E. DELEGATION OF AUTHORITY

Any act authorized by this Ordinance to be carried out by a specific official of the City may be carried out by a professional-level designee of such official at the direction of the official.

F. TECHNICAL AND NONTECHNICAL TERMS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

G. PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the City of Kannapolis, North Carolina, unless otherwise indicated.

SECTION 9.3. RULES OF MEASUREMENT

A. MEASUREMENT

Density, intensity, and dimensional standards shall be measured in accordance with this section:

(1) LOT AREA

Lot area shall be determined by measuring the area of a horizontal plane within the lot lines of a lot.

(2) LOT WIDTH

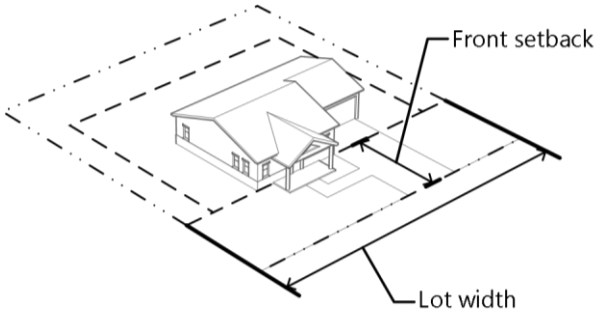
For all lots other than lots fronting the inside of the curve of a street, lot width shall be determined by measuring the distance in a straight line between side lot lines (see Article 10: Definitions) at the required minimum front setback. For lots fronting the inside of the curve of a street, lot width shall be determined by measuring the distance between side lot lines in a straight line that is parallel to and 30 feet behind the line connecting the side lot lines at the front lot line.

(3) SETBACK

a. Front, side, and rear setbacks on a lot shall be determined by measuring the distance between the front, side, or rear lot line (see Article 10: Definitions), respectively, to the nearest projection of a principal structure on the lot. Setbacks shall be unobstructed from the ground to the sky except as otherwise provided in this Ordinance. Minimum required setbacks for each zoning district are set forth in Article 3, Zoning Districts.

b. Minimum setbacks shown on a preliminary plat approved prior to a change in dimensional standards, shall be permitted for subsequent final plats, as long as the initial preliminary plat is valid at the time of filing the first final plat.

Figure 9.3.A(3): Setback and Lot Width Measurement



(4) BUILD-TO ZONE

The area between the minimum and maximum build-to zone boundaries. The build-to zone extends the entire width of the lot.

(5) BUILD-TO ZONE WIDTH

The build-to zone width shall be determined by measuring the distance in a straight line between the two farthest points on the minimum build-to zone boundary.

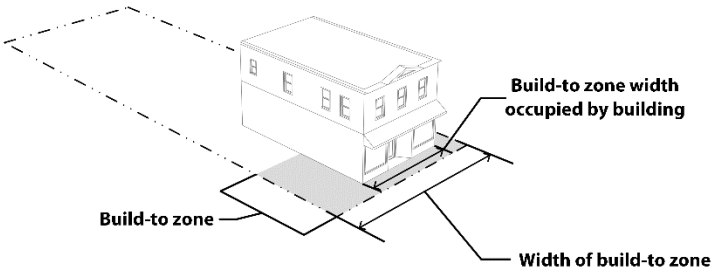
(6) BUILD-TO ZONE WIDTH OCCUPIED BY BUILDING

The build-to zone width occupied by a building shall be determined by measuring the maximum distance in a straight line, parallel to the front lot line, between the exterior building walls within the build-to zone. Where multiple principal buildings on a lot occupy the build-to zone, this distance is summed for all buildings.

(7) PERCENTAGE OF BUILD-TO ZONE WIDTH OCCUPIED BY BUILDING

The percentage of build-to zone width occupied by a building shall be determined by dividing the build-to zone width occupied by a building by the build-to zone width, then multiplying the result by 100.

Figure 9.3.A(7): Percentage of Build-To Zone Width Occupied By Building



(8) IMPERVIOUS SURFACE RATIO

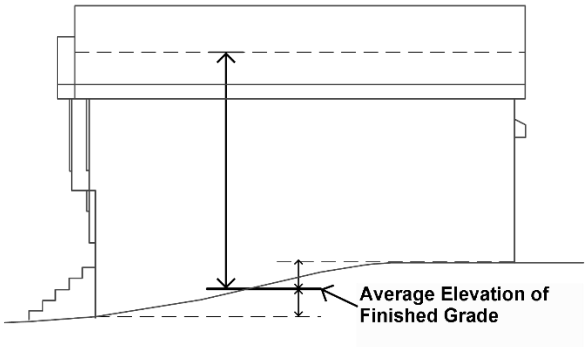
For purposes of the zoning district dimensional and intensity standards in Article 3: Zoning Districts, the impervious surface ratio of a lot shall be determined by dividing the lot's total horizontal land area covered by impervious area by the lot area. In making this determination, the impervious area shall be the horizontal area covered by impervious surface (see Article 10: Definitions).

(9) BUILDING HEIGHT

Building height is measured as the vertical distance between the average elevation of finished grade between the lowest and highest grades along the foundation and 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; or 2) the highest point of a mansard roof; or 3) the highest point of a flat roof, excluding any parapet wall. (See Figure 9.3.A(9)-1: Building Height, and Figure 9.3.A(9)-2: Average Elevation of Finished Grade).

Figure 9.3.A(9)-1: Building Height

Figure 9.3.A(9)-2: Average Elevation of Finished Grade



(10) DENSITY

Unless expressly stated otherwise in this Ordinance, density (expressed as dwelling units per acre) shall be determined by dividing the total number of dwelling units located or proposed on a lot by the area of the lot.

(11) SIGNS

a. SIGN AREA

1. The sign area of a sign having only one sign face is the area within the smallest square or rectangle that will encompass the extreme limits of (1) the writing, representation, emblem, or other display, and (2) any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall if the fence or wall otherwise complies with the standards of this Ordinance and is clearly incidental to the display itself.

2. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when the sign faces are part of the same sign structure and not separated by more than 42 inches, the sign area shall be computed by the measurement of one of the faces.

b. SIGN HEIGHT

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. For the purpose of this definition, normal grad shall be defined as either (1) the existing grade prior to construction, or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. If the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot or parcel, whichever is lower.

B. EXCEPTIONS AND VARIATIONS

The following exceptions and variations are applicable in all zoning districts.

(1) LOTS FOR PUBLIC UTILITIES

Lots for public utilities, using land or an unoccupied building of generally less than 2,500 square feet of site area, are exempt from the minimum lot area and minimum lot width standards of the district in which they are located.

(2) REDUCTION OF MINIMUM LOT WIDTH TO BLOCK FACE AVERAGE

The minimum lot width applicable to a lot shall be reduced below the standards applicable in the zoning district in which the lot is located to the average width of lots located on the same block face and in the same zoning district, where such average lot width is less than required in the district and where a minimum of 70 percent of such lots were recorded prior to July 1, 2022. Calculation of the average width shall exclude any lot width that exceeds the next widest lot width by more than 20 percent.

(3) REDUCTION OF MINIMUM SETBACK REQUIREMENTS TO BLOCK FACE AVERAGE

The minimum required front yard setback on a lot shall be reduced below the standards applicable in the zoning district in which the lot is located to the average established front setback on lots located

on the same block face and in the same zoning district, where such average setback is less than is required in the district and where a minimum of 60 percent of the such frontage was developed prior to July 1, 2022. Calculation of the average shall exclude any front setback depth that exceeds the next deepest depth by more than 15 feet.

(4) EXCEPTIONS TO MAXIMUM BUILDING HEIGHT

The maximum building height standards in this Ordinance shall not apply to the following structures or structural elements.

a. Monuments, water towers, silos, granaries, barns, airway beacons, structures for essential services, flagpoles, utility transmission towers, cooling towers, fire towers, and other similar structures not intended for human occupancy;

b. Spires, belfries, cupolas, domes, chimneys, elevator housings, water tanks, ventilators, skylights, mechanical equipment and appurtenances, and similar rooftop structures or structural elements not intended for human occupancy, provided they:

1. Cover not more than 33 percent of the roof area of the structure to which they are attached; and

2. Comply with applicable screening standards for mechanical equipment and appurtenances;

c. Antennas, provided they comply with height limits established for the specific use;

d. Roof-mounted small-scale solar energy collection systems, in accordance with standards in Section 4.3.D(22), Solar energy conversion system (small-scale);

e. Small-scale wind energy systems, in accordance with the height standards in Section 4.3.D(25), Wind energy conversion system (small-scale).

(5) ALLOWABLE ENCROACHMENTS INTO REQUIRED YARDS OR RIGHTS-OF-WAY

Every part of every required yard, as defined by the minimum setbacks, shall remain unoccupied and unobstructed by a structure or portion of a structure, except as otherwise allowed in Table 9.3.B(5): Allowed Encroachments into Required Setbacks or Rights-of-Way, or by another provision of this Ordinance.

TABLE 9.3.B(5): Allowed Encroachments into Required Setbacks or Rights-of-Way

Feature	Extent and Limitations of Encroachment
Encroachment into Setbacks	
Eaves, overhanging roof, buttresses, gutters, chimneys, cornices, piers, awnings, or and other minor architectural features	May extend up to 24 inches into any required yard.
Steps, stairs, ramps, stoops, balconies, or fire escapes, non-enclosed	May extend up to six feet into any required yard.
Covered, non-enclosed porches	May extend up to six feet into any required yard.
Patios or terraces, or walkways	May extend into or be located in any required yard if less than two inches high.
Retaining wall	May extend as close as 18 inches to a street line or alley line, unless the wall is 30 inches or less in height in which case no setback is required.

TABLE 9.3.B(5): Allowed Encroachments into Required Setbacks or Rights-of-Way

FEATURE	EXTENT AND LIMITATIONS OF ENCROACHMENT
A protective hood, porch, or overhang over a doorway	May extend up to five feet into any required yard.
Required screening	May encroach into any required yard.
Bay windows	May extend up to three feet into any required yard if no more than ten feet wide.
Accessory structures not listed in this table	May extend into or be located in any required side or rear yard in accordance with Section 4.3, Accessory Uses and Structures.
Flagpole	May be located in any required yard if less than 20 feet high.
Signs, projecting, free-standing, or attached to an awning, canopy, or marquee	May extend into any required yard in accordance with Section 5.9, Sign Standards.
Fences and walls	May be located in any required yard in accordance with Section 5.5, Fence and Wall Standards.
Mailboxes (including cluster mailboxes)	May be located in any required yard
Stormwater control measures (above or below grade)	May be located in any required yard
ENCROACHMENT INTO RIGHT-OF-WAY	
Awnings, canopies, and marquees	May project over the public rights-of-way subject to the following regulations: • Shall not extend more than two-thirds of the distance from the building to closer of the curbline or the edge of the street surface; • Shall not project within 12 inches of the curb line or the edge of the street surface; • Shall maintain a minimum eight-foot vertical clearance above the right-of-way, except that the free-hanging valance of an awning or canopy may extend to within seven feet above the right-of-way; and • Shall not interfere with the growth or maintenance of street trees or with the maintenance of street lights and street signs.
Signs on awnings, canopies, and marquees and projecting signs	May project over the public rights-of-way in accordance with Section 5.9, Sign Standards.

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10. DEFINITIONS

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ARTICLE 10. DEFINITIONS

The following terms and uses (shown in bold font), when used in this Ordinance, shall have the meaning ascribed to them below.

A

Abandonment

The relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abut

Touching and sharing a common point or line.

Abutting parcels

Parcels which are directly touching and have common parcel boundaries. Parcels across a public right-of-way from each other are not abutting parcels.

Accessory dwelling unit

A dwelling unit that is accessory, supplementary, and secondary to a single family detached dwelling that may be internal to or attached to the principal dwelling or in a detached structure.

Accessory equipment structure

A building or cabinet-like structure located adjacent to, or in the immediate vicinity of, a wireless support structure or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

Accessory structure

A building or other structure, the use of which is incidental to that of the main building and which is located on the same parcel of property and is customarily used in connection with the main building or other structure. Accessory structures are subordinate in size to the principal (main) building. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building. See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Accessory use

A subordinate Use of a building or other structure, or Use of land which is:

1. conducted on the same Lot as the principal Use to which it is related, and
2. clearly incidental to, and customarily found in connection with, such principal Use.

Addition (to an existing building)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Adjacent

All properties immediately contiguous to a development site, including those which are separated from the site only by a road or other right-of-way or easement.

Adjoin

Touching at some point.

Administrative adjustment

See Section 2.5.D(3).

Aggregate Caliper Inches (ACI)

The combined total number of inches of existing and proposed trees used to meet a landscape requirement within a required landscape area.

Agriculture

The production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. This definition does not include community gardens, feed lots, swine farms, or processing or distribution plants for agricultural products and supplies.

Air transportation and support facilities

All facilities necessary or useful in rendering air transportation service, including without limitation, rights- of-way, bridges, tunnels, motor vehicles, stations, terminals, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of air transportation service.

Airport

For purposes of Section 3.8.C, Airport Overlay (AO) District, the Concord Regional Airport.

Airport elevation

The highest point of an airport's usable landing area measured in feet from mean sea level. The airport elevation for the Concord Regional Airport is 690 feet above mean sea level.

Airport hazard

Any structure or object of natural growth located on or in the vicinity of a public airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

Alley

Any public space or thoroughfare 20 feet or less wide which has been dedicated or deeded for public use.

Alteration

Any change or modification in construction or occupancy.

Alteration of a watercourse

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Alternative tower structure

Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Amateur radio operator

A person who has been issued a license to operate on the Amateur radio frequencies by the Federal Communications Commission.

Amusement park

A primarily outdoor or open facility, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

Animal boarding

A facility which regularly offers to the public the service of boarding dogs or cats, or both, for a fee. Such a facility may, in addition to providing shelter, food, and water, offer grooming or other services for dogs and/or cats.

Animal shelter

A facility which is used to house or contain household pets and which is owned, operated, or maintained by a government entity or a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.

Animal unit

A unit of measurement to compare various animal types based upon equivalent waste generation. One animal unit equals the following: 1.0 beef feeder or slaughter animal; 0.5 horse; 0.7 dairy cow; 2.5 swine weighing over 55 pounds; 15 swine under 55 pounds; 10 sheep; 30 laying hens; 55 turkeys; 100 broiler chickens or an equivalent animal unit. The total animal units located on a given parcel or facility shall be determined by adding the animal units for each animal type.

Animation

The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be animation. Also included in this definition are signs having "chasing action" which is the action of a row of lights commonly used to create the appearance of motion.

Antenna

Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Antenna Element Replacement

The replacement of any part or all an antenna or antenna array with a model of the same manufacturer and model type or close specification.

Antenna, Stealth / Stealth Wireless Support Structure

Wireless telecommunication antenna and related equipment and their wireless support structure, if any, designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

Antenna support structure (amateur radio)

Any structure, tower, pole, mast that supports antennas for amateur radio operation.

Apiary

Bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found. (Source: NCGS § 106-635)

Appeal of administrative decision

See Section 2.5.D(4).

Applicant

A person who submits an application requesting a development approval or permit authorized by this Ordinance.

Application

A written request for any approval, permit, or action required by this Ordinance, including any written request for approval or issuance of a development order or development permit. This includes such terms as "proposals" and "requests."

Approach, Transitional, Horizontal and Conical Zones

These zones apply to the area under the approach, transitional, horizontal and conical surfaces defined in Federal Aviation Regulations (FAR) Part 77.

Arboretums and botanical gardens

A place where trees, shrubs, or other woody plants are grown, exhibited, or labeled for scientific, education, or passive recreational purposes—but not including the harvest of plants or their produce.

Arborist

A qualified professional who has studied the science or art of cultivating trees especially for ornamental use.

Area of future-conditions flood hazard

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Area of shallow flooding

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Art gallery

An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.

Artisan production

Making or fabrication of crafts or products by an artist, artisan, or craftsperson either by hand or with minimal automation and may include educational presentations and direct sales to consumers. This definition includes small-scale fabrication, manufacturing, and other industrial uses and processes typically not permitted in non-industrial zoning districts such as welding and sculpting. This use does not include microbreweries.

Automated teller machine (ATM)

A mechanized device operated by or on behalf of a bank or financial institution that allows customers to conduct automated banking or financial transactions. Where an ATM is provided at the site of a bank or financial institution for use by customers in motor vehicles, the ATM is considered a drive-through facility accessory use. At other locations, an ATM may be considered a separate accessory use to the principal use(s) of the location.

B

Balloon

A nonporous bag of material filled with heated or non-heated air or gas so as to rise or float in the atmosphere.

Bank or financial institution

An establishment that provides retail banking services (banks, savings and loans institutions, credit unions, mortgage lending), or similar financial services to individuals and businesses. This use type does not include check cashing, auto title, or payday loan businesses or bail bond brokers. Accessory uses may include automated teller machines (ATMs) and facilities providing drive-through service.

Banner

A sign or outside advertising display having the character, letters, illustrations, ornamentations, symbol, color or visual representation applied to cloth, paper, vinyl, fabric, plastic, or like kind of malleable material with or without frame. Flags shall not be considered banners.

Bar

An establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises. Sandwiches, light meals, snacks, and/or full-service meals are available for consumption on the premises but are not the principal or predominant use of the establishment.

Base flood

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Base flood elevation (BFE)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Base station

A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

Basement

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Bed and breakfast establishment

A single-family detached dwelling , that is primarily used for short-term lodging of transient guests, in exchange for compensation. Breakfast is typically served to guests, The owner or operator may live in the bed and breakfast.

Berm

An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses.

Best management practices

Methods, measures, practices, schedules of activities, and maintenance procedures to prevent or reduce nonpoint source pollutants, such as those found in stormwater runoff. Best management practices may include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. With regard to construction, best management practices may include structural devices or nonstructural practices that are designed to prevent pollutants from entering water or to direct the flow of water. Economic, institutional, and technical factors are considered in developing best management practices.

Bicycle Facilities

A general term denoting improvements and provisions made or approved by public agencies to accommodate or encourage bicycling, including parking facilities, mapping, separated bike lanes, and off-street bicycle paths.

Bicycle Lane (Bike Lane)

A portion of a roadway which has been designated by physical barrier, raised pavement, bollards, striping, signing, and pavement markings for the preferential or exclusive use of bicyclists.

Bicycle Path

A hard-surfaced path for bicycles. This bikeway is physically separated from motorized vehicular traffic by an open space barrier and either within the highway right-of-way or within an independent right-of-way.

Bike rack or bike parking facility

A stationary fixture to which a bicycle can be supported upright, provide two points of contact, and be securely attached (typically using a bicycle lock) to prevent theft; or other specialized structures for the securing and storage of a bicycle.

Bike share station

The component of a bike share system that consists of a bike parking rack where bicycles that are available for use as part of the bike share system are parked and available for use by users. Bike share stations are the most visible components of a bike share system. Bike share stations should be: conveniently located in areas of relatively high volumes of pedestrian traffic and in places that are easy for bicyclists to find, The bike share station should be designed and built consistent with the guidelines outlined in *Bike Share: Station Siting Guide*, by the National Association of City Transportation Officials (NACTO). For many bike share systems, smartphone mapping applications show nearby stations with available bikes and open bike docks.

Block

The land lying within an area bounded on all sides by streets.

Block Face

All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, water way (wider than thirty feet, 30'), or end of a dead-end street. An intersecting street shall determine only the boundary of the frontage of the side of the street which it intersects.

Block Length

The distance along a block face between street intersections, measured from street right-of-way on each side.

Block Perimeter

The distance measured along the outside of a block, including all of the block lengths.

BMP

See "best management practices".

Board

The Board of Adjustment.

Board of Adjustment

The Board of Adjustment of Kannapolis, North Carolina. The Board of Adjustment may also be referred to as "the Board" in this Ordinance. (See Section 2.3.C.)

Boarding house

A building containing a single-family detached dwelling where three or more bedrooms are provided for lodging, with or without meals, for compensation. "Compensation" may include money, services, or other things of value.

Broadcasting studio

A facility for the staging and recording of audio or television productions.

Building

Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered as a separate building.

Building Code

The North Carolina State Building Code.

Building Front

The linear length of building facing a street right-of-way or in the case of a planned unit development, a legal private access road.

Building permit

An authorization to construct a structure as issued by the Cabarrus or Rowan County Building Inspections Department.

Building, Main or Principal

A building which is occupied by, or devoted to, a principal use. In determining whether a building is the principal or primary building, the use of the entire parcel shall be considered.

Build-to zone

The area between the minimum and maximum build-to zone boundaries. The build-to zone extends the entire width of the lot.

Build-to Zone Boundary, Maximum

The line that is a specified distance from the front property line and extends the entire width of the lot, and that delineates the rear-most extent of the build-to zone.

Build-to Zone Boundary, Minimum

The line that is a specified distance from the front property line and extends the entire width of the lot, and that delineates the forward-most extent of the build-to zone.

Built-upon area

Any man-made surface that does not allow water to infiltrate through the surface and into the subsoil. This does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in N.C.G.S. Section 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle.

Business service center

An establishment primarily engaged in providing a range of office support services, such as document copying and printing services, word processing, services, on-site personal computer rental, and office product sales, and the delivery of parcels (e.g. Federal Express service).

C

Caliper

A standard trunk diameter measurement for trees taken six inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes.

Canopy

A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a building. Also known as an awning. Permanent marquees and porticoes which are designed as a continuous or integral part of the structure shall not be considered canopies.

Camping

Temporary, non-commercial use of land for sleeping or living outdoors, typically in tents, vehicles, or temporary shelters.

Car wash

An establishment that provides washing and cleaning of passenger or recreational vehicles by hand, by use of automated equipment, or by self-service facilities.

Catering establishment

An establishment whose principal business is to prepare food on-site, then to transport and serve the food off-site. This use includes a commercial kitchen. Consumption of food or beverages by customers is not permitted on the premises.

Cemetery

A place used for the permanent interment of dead human bodies (or their cremated remains) or pet animal bodies (or their cremated remains). A memorial garden located on the premises of a place of worship where only the ashes of deceased persons or pets may be scattered or placed, is not a cemetery. A cemetery includes a burial park for earth internment, a mausoleum, and a columbarium.

Centerline

The true centerline of a street right-of-way that has been fully dedicated to the required width.

Certificate of compliance

See Section 2.5.C(2).

Certificate of nonconformity adjustment

See Section 2.5.E(4).

Certificate of occupancy

A certificate issued by a building official representing that all required building and service systems have been inspected for compliance with the building code and other applicable laws and ordinances and that the building, or portion of the building, may be occupied or used.

Change of use

A change from one principal use of a building or land to another principal use of the building or land, whether or not there is an increase in the size of the existing building or extent of the use of the land.

Channel

A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

Check cashing, auto title, or payday loan business

An establishment that primarily accepts or cashes, for compensation, a payment instrument regardless of the date of the payment instrument and/or provides cash advances or small loans, sometimes in exchange for a vehicle title. This use does not include activities undertaken by any bank, trust company, savings bank, savings and loan association, or credit union, as long as that institution has a branch that accepts deposits in the state; or any subsidiary or affiliate of an institution described in part. Additionally, this use does not include a business in which a customer presents a payment instrument for the exact amount of a purchase; or involve foreign currency exchange services or the cashing of a payment instrument drawn on a financial institution other than a federal, state, or other state financial institution.

Childcare center

A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Childcare center includes family childcare homes and any other childcare arrangement not excluded by N.C.G.S. § 110-86(2), that provides childcare, regardless of the time of day, wherever operated, and whether or not operated for profit.

Childcare does not include the following:

1. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
2. Recreational programs operated for less than four consecutive months in a year;
3. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
4. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
5. Public schools;
6. Nonpublic schools described in N.C.G.S. § 115C that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility for less than six and one-half hours per day, either on or off the school site;
7. Bible schools conducted during vacation periods;
8. Care provided by facilities licensed under N.C.G.S. Article 2 of Chapter 122C ;
9. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
10. Any childcare program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

City

The City of Kannapolis, North Carolina.

City Clerk

The City Clerk of the City of Kannapolis, North Carolina.

City Council

City Council of the City of Kannapolis, North Carolina.

City Engineer

The City Engineer of the City of Kannapolis, North Carolina.

City right-of-way

A right-of-way owned, leased, or operated by the City of Kannapolis, including any public street or alley that is not a part of the State highway system.

City utility pole

A pole owned by the City of Kannapolis in the City right-of-way that provides lighting, traffic control, or a similar function.

Civic, social, or fraternal organization

A facility for administrative, meeting, or social purposes for a private or nonprofit organization, primarily for use by administrative personnel, members, and guests.

College or university

An institution offering a program of post-secondary education and instruction leading to associate, baccalaureate, or higher degrees, and that is approved by a national association of colleges and universities. It may include classrooms, offices, student bookstores, performance facilities, dormitories, athletic facilities, and similar uses used to support educational activities.

Collocation

For purposes of Section 4.2.D(4)a.1, Wireless Support Structure, Collocation of Antenna on Existing Structure, the placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, City utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities.

Combination retail

A department store that exceeds 75,000 square feet of which a minimum of 60 percent of the floor space is used as a department store, that also incorporates a drug store or pharmacy and a full line of groceries. This use does not include the principal uses of grocery store or food market, department store, drug store or pharmacy.

Combined development

Two or more establishments or businesses occupying a common building or adjoining buildings which are designed and developed in a coordinated manner and which share parking, driveways and other common facilities.

Commercial fuel depot

An unattended, automated fuel dispensing facility that dispenses fuel to businesses and organizations that maintain a fleet of vehicles. This use does not include any retail sale of gasoline to the general public and does not include any store sales, vehicle service, or vending operations.

Commercial message

Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Commercial parking (as a principal use)

An off-street, hard-surfaced, ground level area—or a structure composed of one or more levels or floors—that is used exclusively for the temporary storage of motor vehicles. A structured parking facility may be completely below grade or partially or totally above grade, with levels either being open to the sides (deck) or enclosed (garage). A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking use.

Commercial vehicle

For purposes of Section 4.3.D(17), Outdoor Storage, any of the following:

1. A vehicle with more than two axles;
2. A vehicle used in the transport of hazardous materials that requires the vehicle to be placarded under Title 49 of the Code of Federal Regulations, Part 172, Subpart F;
3. Construction vehicles designed for off-road usage such as bulldozers, excavators, and other similar equipment; or
4. A vehicle requiring the driver to have either a Class A or Class B North Carolina Driver's License or the equivalent.

Commercial vehicle sales and rentals

Uses that provide for the sale or rental of large trucks, mass transit vehicles, large construction or agricultural equipment, or other similar vehicles.

Commercial vehicle service and repair

Establishments, excluding vehicle paint finishing shops, that repair, install, or maintain the mechanical components or the bodies of large trucks, mass transit vehicles, large construction or agricultural equipment, or commercial boats. Truck stops and fueling facilities are included in this commercial vehicle service and repair use category.

Common Ownership

Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of their family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Communications facility

The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

Communications tower

See "wireless support structure".

Communications service

Cable service as defined in 47 U.S.C. § 522(6) (The one-way transmission to subscribers of video programming, or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service), and information service as defined in 47 U.S.C. § 153(24) (The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service), and telecommunications service as defined in 47 U.S.C. § 153(53) (The term "telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used), or wireless services.

Communications Service Provider

A cable operator as defined in "Communications Service" and 47 U.S.C. § 522(5); a provider of information service, as defined in "Communications Service" and 47 U.S.C. § 153(24); a telecommunications carrier, as defined in "Communications Service" and in 47 U.S.C. § 153(51); or a wireless provider.

Community garden

A place for cultivation of vegetables, fruits, flowers, or ornamental plants by more than one person, household, family, or non-profit organization for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more persons or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

Community recreation center

A facility operated by a public or nonprofit entity for the provision of social and recreation programs and facilities. The facility may be designed to accommodate and serve specific residential developments or significant segments of the community, and may include meeting rooms, game rooms, club houses, swimming pools, courts, exercise equipment, snack bars, kitchens, and similar facilities. This use does not include commercial recreation/entertainment establishments, which are categorized in the Recreation/Entertainment category.

Composting (small-scale)

An enclosed area at least 100 square feet in area that contains a compost tumbler or similar apparatus designed for the purpose of converting household kitchen and yard waste into fertilizer.

Composting facility

A facility where organic matter derived primarily off-site is processed by composting and/or is processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.

Comprehensive Plan

The Comprehensive Plan adopted by City Council to address growth and development in and around Kannapolis. For purposes of this Ordinance, the Comprehensive Plan includes the various functional and small area plans adopted by City Council.

Conditional zoning

See Section 2.5.A(3).

Conference or training center

A facility designed to accommodate fewer than 2,500 persons and used for conferences, seminars, product displays, recreation activities, employment, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.

Connectivity ratio

The ratio of the street links to nodes as prescribed in Section 5.1.C(6)b, Street Connectivity.

Consent agreement

A regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in this Ordinance and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes. A consent agreement contains an integrated development scheme for a particular phase or phases of development approval, maps, diagrams and other appropriate materials showing future conditions consistent with the provisions of this Ordinance.

Construction-related temporary structure

A temporary structure, facility, or space associated with the staging, management, and/or security of new construction—including an office building, security building, storage buildings, construction waste and recycling receptacles, temporary sanitation facilities, outdoor storage, and employee parking areas—and located on or adjacent to the construction site.

Consumer goods establishment

An establishment that sells consumer goods at retail, such as apparel and accessory stores; bicycle sales, rental, service, or repair shops; convenience stores; department stores; drug stores or pharmacies; florist and gift shops; hobby and craft shops; home, building, and garden supplies stores; monument or headstone sales establishments; and similar uses.

Apparel and accessory store

Retail stores primarily engaged in selling new clothing, shoes, hats, underwear, and related articles for personal wear and adornment. This includes custom tailors carrying stocks of materials.

Bicycle sales, rental, service, or repair shop

An establishment engaged in the sales, rental, service, or repair of bicycles.

Convenience store

A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). Any food service facilities will be considered as a restaurant. These stores are not permitted to sell gasoline or other motor fuels.

Department store

A general merchandizing store offering a variety of unrelated goods and services that may include clothing, housewares, furniture, body products, and specialty items.

Drug store or pharmacy

An establishment engaged in the filling and sale of prescription drugs and the sale of medical supplies, nonprescription medicines, and related goods and services. It may also sell nonmedical goods such as cosmetics, cards, and limited food and household items. Accessory uses may include automated teller machines (ATMs) and facilities providing drive-through service.

Florist or gift shop

Establishments primarily engaged in the retail sale of flowers, plants, cards small gifts, and other similar items.

Hobby and craft shop

A retail store primarily selling craft and model supplies.

Home, building, and garden supplies store

An establishment primarily engaged in retailing a general line of new home repair and improvement materials and supplies, such as lumber, plumbing goods, electrical goods, tools, house wares, appliances, hardware and lawn and garden supplies.

Monument or headstone sales establishment

An establishment primarily engaged in cutting, shaping, and finishing marble, granite, slate, and other stone, or engaged in buying or selling monuments or headstones for use in cemeteries of mausoleums.

Specialty food store

An establishment that offers specialty food products at retail, such as meat, seafood, produce, artisanal goods, baked goods, pasta, cheese, confections, coffee, and other specialty food products, and may also offer additional food and non-food commodities related or complementary to the specialty food products. A food market may sell beer and wine for consumption off the premises with the appropriate beverage license; may include a delicatessen and/or bakery, and prepare minor amounts of food on site for immediate consumption. A specialty food store is prohibited from selling gasoline or other motor fuels.

Contiguous

Bordering or adjoining, meeting or joining at the border or surface.

Contractor's yard

A use involving the outdoor storage of materials, supplies, and equipment by building, heating/air conditioning, plumbing, electrical or other development contractors as the principal use on a lot. Accessory uses may include offices.

Convey

To transfer all or a part of a title or equitable interest in land; to lease or assign an interest in land; or to transfer any other land interest.

Cooperative house

A building used for living quarters by more than four persons sharing the costs of operation. A cooperative house is, in general, nonprofit, communal, and self-governing, with residents of the house pooling their monetary and personal resources to create a community style home with shared operation and governance of the house.

Correctional institution

A place of confinement or incarceration, including places requiring overnight stays only, for persons who have broken the law, are awaiting trial, and/or have been convicted of criminal offenses.

Corridor

A street or roadway identified as a principal link or gateway within the community.

County

Cabarrus County or Rowan County, North Carolina.

Courtyard

A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building.

Crematory

A facility containing furnaces for the reduction of dead bodies—either human or animal—to ashes by fire.

Critical Root Zone (CRZ)

A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH with a minimum of eight feet.

Critical Zone

A rectangular-shaped zone located directly off the end of a runway's primary surface, beginning 200 feet from the end of the pavement, which is critical to aircraft operations in that it is more apt to have accidents within it because of the take-off and landing mode of aircraft in that particular area.

Cul-de-sac

A short, dead-end street terminating in a vehicular turn-around area.

Cultural facility

A facility for storing, using, loaning, and occasionally selling literary, historical, scientific, musical, artistic, or other reference materials (e.g., library), or for displaying or preserving objects of interest or providing facilities for one or more of the arts or sciences to the public (e.g., museum). Accessory uses include offices and storage facilities and meeting rooms.

Curb

A stone, concrete, or other improved boundary marking the edge of the roadway or paved area.

D

Data center

An establishment primarily engaged in providing infrastructure (e.g., computer systems and associated components such as telecommunications and storage systems) for data processing and storage, web-hosting, application hosting, streaming services, and related services.

DBH

See "Diameter-at-breast-height".

Decision maker

The agency, official, or entity authorized to render a final decision which approves, approves with conditions, or denies an application for development approval.

Dedication

A gift, by the owner, of his property to another party without any consideration being given for the transfer. The dedication is made by written instrument and is completed with an acceptance.

Developer

A person, firm, partnership, joint venture, association, corporation, groups or organization who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development. The owner of land proposed to be subdivided or developed or its authorized agent who is responsible for any undertaking that requires review and/or approval under this Ordinance.

Development

The division of a parcel of land into two of more parcels; the construction, reconstruction conversion, structural alteration, relocation, or enlargement of any structure; any mining, drilling, dredging, filling, excavation, clearing of roadways or building sites, landfill, or land disturbance; and any use or extension of the use of land. This definition excludes normal earth working associated with crop farming or landscaping of an individual single-family residential lot. The term "development" includes all of the activities listed in the definition of "development" in 15A NCAC 2H.1002, which definition is hereby incorporated into this Ordinance, and any of the following activities:

- Change of use;
- Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling, or otherwise significantly disturbing the soil of a site;
- Building, installing, enlarging, replacing, or substantially restoring a structure, impervious surface, or central water system and including the long-term storage of materials;
- Removal of vegetative cover, such as site clearing or the removal of specimen trees or significant stands of trees;
- Erection of a permanent sign;
- Any activity increasing the minimum off-street parking requirements for the site under this Ordinance; or
- Construction, elimination or alteration of a driveway onto a public street.

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Development approval or permit

Any approval or permit for which there is a procedure in Section 2.5, Application-Specific Review Procedures and Standards.

Diameter-at-breast-height

The diameter of a tree trunk measured in inches at a height 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split. Diameter-at-breast-height may be abbreviated as DBH.

Digital flood insurance rate map (DFIRM)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Director of Engineering

The Director of Engineering of the City of Kannapolis, North Carolina.

Dish antenna

A dish antenna, which is also referred to as an earth station, is defined as an accessory structure that includes the following: (1) An antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; (2) A low-noise amplifier, which is situated at the focal point of the receiving component and whose purpose is to magnify the transfer signals; and (3) A coaxial cable whose purpose is to carry the signals into the interior of a building.

Dog park

A park for domesticated dogs to exercise and play off-leash (many times with other dogs) in a controlled and fenced environment under the supervision of their owners.

Dormitory

A building that contains bedrooms for students attending a college or university. Each bedroom shall have an individual private bathroom with a bath or shower. Bedrooms may be arranged around a common area with a kitchen which is shared by students renting the bedrooms, or along a hall which provides access to a common kitchen space. Bedrooms are typically rented to the student on an annual basis or for an academic semester or summer term. Accessory uses may include fitness facilities, pools, parking areas, and similar accessory uses.

Down-zoning

A amendment to the Official Zoning Map or the text of this Ordinance that affects an area of land by decreasing the permitted development density of the land to be less dense than was allowed under its previous usage, or that reduces the permitted uses of the land under this Ordinance to fewer uses than were allowed under its previous usage.

Drive-through facility

A facility used to provide products or services to customers who remain in their vehicles, whether through a window or door in a building, a machine in a building or detached structure (e.g., ATM), or through a mechanical device (e.g., a pneumatic tube system). In addition to the pick-up window or door, drive-through service facilities also may include remote menu boards and ordering stations. Use types that commonly have drive-through service include banks, restaurants, and drugstores.

Driveway

A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

Dry-cleaning service

A business where retail customers drop off or pick up laundry or dry cleaning. Cleaning processes may not take place on-site.

Duplex

A residential structure located on one lot and containing exactly two dwelling units that, when arranged side-by-side, are separated from each other by an unpierced wall extending from ground to roof. The units shall be attached and one story, or stacked vertically with one dwelling unit located on top of the other.

Dwelling

Any building which contains one or more dwelling units used, intended or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

Dwelling unit

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

E

Easement

A grant by the property owner for use by the public, a corporation or person(s) of a strip of land for a specific purpose.

Electric vehicle charging station

A vehicle parking space served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy by conductive or inductive means from the electric grid or other off-board electrical source to a battery or other energy storage device within a vehicle that operates, partially or exclusively, on electric energy.

- A Level 1 charging station is a slow-charging station that typically operates on a 15- or 20-amp breaker on a 120-volt Alternating Current (AC) circuit.
- A Level 2 charging station is a medium-speed-charging station that typically operates on a 40- to 100-amp breaker on a 208- or 240-volt Alternating Current circuit.
- A level 3 charging station is an industrial grade charging station that operates on a high-voltage circuit to allow for fast charging.

Electronic gaming operation

Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic devices, including, but not limited to computers and gaming terminals, to conduct games of skill or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés, which have a finite pool of winners. This does not include any lottery endorsed by the State of North Carolina.

Electronic message board

A sign which displays messages, such as time and temperature, in alternating light cycles.

Elevated building

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Encroachment

For purposes of Section 3.8.D, Floodplain Protection Overlay (FPO) District, only, the advance or infringement of uses, fill, excavation, buildings, structures, or development into a Special Flood Hazard Area, which may impede or alter the flow capacity of a floodplain.

Eligible facilities request

A request for modification of an existing wireless support structure or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Enlargement

An increase in size or addition to the floor area of a building or structure, or an increase in the portion of a building, structure, or land area occupied by an existing Use.

Equestrian center

A facility designed and intended for the keeping or boarding of horses; or teaching and display of equestrian skills, including but not limited to, show jumping and dressage, and the hosting of events, competitions, exhibitions, or other displays of equestrian skills. Accessory uses include the caring for, breeding, boarding, dealing, selling, renting, riding, or training of equines. It includes barns, stables, rings, paddocks, or other related accessory structures.

Equipment compound

An area containing accessory equipment surrounding or near the base of a wireless support structure within which a wireless facility is located.

Erect

To build, construct, attach, hang, place, suspend, affix, and/or apply.

Event Center

Premises which are frequently rented out for public or private activities that are not repeated on a weekly basis, and which are not open to the public on a daily basis at time other than when an event is scheduled.

Excavation

The removal of soil, rock, or other inert matter from a land area.

Expansion of existing antenna array

The addition of an antenna or antenna array with a new manufacturer and/or model type and/or increases the bandwidth of the antenna or antenna array.

F

Façade

The entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

Fall zone

The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family

An individual; or two or more persons related by blood, marriage, or law; or a group of not more than any five persons living together in a dwelling unit. Employees that provide basic household services to and share common housekeeping facilities with any family consisting of an individual or two or persons related by blood, marriage, or law, are a part of the family.

Family care home

A care home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six (6) disabled persons. Family care homes are subject to licensure by the North Carolina Department of Health and Human Services, Division of Health Service Regulation.

Farmers' market (as a principal use)

A collection of vendors using private or publicly owned property or property owned by a not-for-profit organization for the sale of agricultural and horticultural products, or for the sale of baked, canned, or preserved foods. If the farmers' market occurs regularly for all or most of the year, it is considered a principal use. If the farmers' market occurs only occasionally or periodically for a limited time period during the year, it is considered a temporary use.

Farmers' market (as temporary use)

A collection of vendors using private or publicly owned property or property owned by a nonprofit organization for the sale of agricultural products grown by the vendor, value-added items produced by the vendor from agricultural products, or for the sale of foods prepared by the vendor. If the farmers' market occurs once every two weeks or more frequently for all or most of the year, it is considered a principal use. If the farmers' market occurs only occasionally or periodically for only a limited time period during the year, it is considered a temporary use. Operations generally meeting the definition of a temporary farmers' market, but that are open fewer than four days per year, shall be construed as a "garage or yard sale (which is a temporary use)."

Feed Lot

A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals that is either specifically designed as a confinement area using a liquid animal waste management system or having a concentration of animals such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, within a 12-month period. Pastures shall not be considered feedlots for purposes of this Ordinance.

FEMA

The Federal Emergency Management Agency.

Fence

A barrier of man-made construction, regardless of the material used, including walls but not retaining walls. ("material" does not include vegetation.)

Festoon lighting

A string of outdoor lights suspended between two or more points.

Fill

Deposit of soil, rock, or other material which creates an obstruction or increases surface elevation.

Fire Code

The North Carolina Fire Prevention Code.

Flag

Any fabric, banner, or bunting that is wider than it is tall and is attached at one side to a pole for the purpose of attracting attention.

Flea market (as temporary use)

The temporary and occasional collection of vendors using stalls, booths, or tables on property owned by a public agency or a not-for-profit organization for the sale of merchandise, collectibles, crafts, antiques, and other items, excluding automobiles, automobile parts, and non-portable household appliances.

Fleet terminal

A building or a portion of a building wherein calls are received for the dispatch of vehicles to perform services including, but not limited to, couriers, deliveries, security, locksmiths and taxis. No storage of commercial vehicles used in providing such services is allowed on site.

Flood

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Flood boundary and floodway map (FBFM)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Flood hazard boundary map (FHBM)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Flood insurance

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Flood insurance rate map (FIRM)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Flood insurance study (FIS)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Flood zone

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodplain

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodplain administrator

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodplain development permit

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodplain management

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodplain management regulations

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodproofing

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Flood-resistant material

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodway

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floodway encroachment analysis

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Floor area

The sum of the gross horizontal areas of the several stories of the building measured from the exterior faces of the exterior walls or from the center line of party walls, excluding any basement floor, interior balconies and mezzanines, elevator shafts and stair wells, and enclosed porches. The floor area of accessory uses and of accessory buildings on the same lot shall be included.

Floor area ratio (FAR)

The building floor area divided by the gross area of the lot.

Forestry

Managing and using lands and natural resources that occur on and in association with forests, or with reforested vacant properties, including trees, other plants, soil and water. This use includes but is not limited to the planting, cultivating, harvesting, transporting, and selling of trees.

Fortune telling establishment

An establishment primarily engaged in attempts to tell fortunes or predict the future (for pay or voluntary contributions) by means of occult or psychic powers, faculties, or forces; necromancy, palmistry, psychology, psychic psychometry, spirits, medium-ship, seership, prophecy, cards, talismans, sorcery, charms, potions, magnetism, tea leaves, magic, numerology, mechanical devices, handwriting analysis, phrenology, character readings, or any other similar means.

Freeboard

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Front

Any public street frontage, not including alleys.

Frontage

The frontage of a parcel of land is that distance where a property line is common with a road right-of-way line.

Functionally dependent facility

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Funeral home or mortuary

A building used for human funeral services. A funeral home or mortuary may contain facilities for:

1. Embalming and other services used in the preparation of the dead for burial;
2. Cremation;
3. The display of the deceased;
4. The performance of ceremonies in connection with a funeral;
5. The performance of autopsies and similar surgical procedures;
6. The sale and storage of caskets, funeral urns, and other related funeral supplies; and
7. The storage of funeral vehicles.

G

Garage or carport

An accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles of the occupants in the building to which such garage or carport is accessory. It shall not include the parking or temporary storage of a delivery or truck motor vehicle having a capacity in excess of one ton.

Gas and heating oil sales

Any building or premises used for the dispensing or sale of natural gas or heating oil.

GFA

See "Gross floor area".

Golf course, Public or private

An area of land laid out for playing golf. Accessory uses may include driving ranges, putting greens, a club house, a pro shop, concessions for serving food and refreshments to members and guests, maintenance buildings, and other accessory facilities directly related to golf.

Government offices

Offices for any department, commission, independent agency, or instrumentality of the United States, the state, the county, the City, or another municipal government authority, district, or other governmental unit.

Grade

A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 feet from the building, whichever is closer to the building. The term "grade" also includes a reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 feet from the building, whichever is closer to the building.

For the purposes of the sign regulations in this Ordinance, grade is defined as the uppermost surface directly below the sign or immediately adjacent to the support. Where the uppermost surface has been artificially raised for landscaping or other purposes, grade shall be measured from the level of the nearest city or state street curb.

Grade, finished

The level of the soil after completion of site development.

Grade, natural

The undisturbed ground level which may be determined by on-site evidence (vegetation, ground level on adjacent land, elevation of adjacent streets and roads, soil types and locations, etc.)

Grading permit

See Section 2.5.C(7), Grading Permit.

Green roof

See "Vegetated roof".

Greenhouse

An enclosed detached accessory structure consisting primarily of light-transmitting materials and used exclusively for growing plants or vegetables.

Greenway

A linear area maintained as open space in order to conserve natural and/or cultural resources, and to provide recreational opportunities, aesthetic and design benefits, and linkages between open space and recreational facilities and between these facilities and their users.

Grocery store

An establishment that sells a wide variety of goods organized in departments, including but not limited to fresh produce, meat and dairy, canned and packaged food items, small household goods, beer and wine, and similar items, with more than 50 percent of the gross floor area devoted to the sale of food products for home preparation and consumption.

Gross floor area

The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky. Gross floor area may be abbreviated as "GFA".

Groundwater

Subsurface water within and below the zone of continuous saturation.

Gutter

A shallow channel, usually set along a curb or the pavement edge of a road or the edge of a building roof, for purposes of catching and carrying off water.

H

Hazardous waste collection and disposal

A facility principally used for the processing, storage, or disposal of solid waste which, because of its quantity, concentration or physical, chemical, or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hazardous waste management facility

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Height

For purposes of, For the purpose of determining the height limits in all zones set forth in Section 3.8.C, Airport Overlay (AO) District, and shown on the zoning map, the datum shall be mean sea level elevation, unless otherwise specified.

Highest adjacent grade (HAG)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Historic building

Any building 50 years old or more with distinctive architectural features characteristic of the period of history during which it was originally constructed.

Holiday decorations

Displays erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent in nature, and which contain no commercial message.

Home occupation

An occupation, profession, or business activity conducted entirely within a dwelling unit by a member of the family residing the dwelling unit, that is incidental and subordinate to the use of the dwelling unit for dwelling purposes.

Home occupation permit

See Section 2.5.C(5).

Homeowners' association

An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants for maintenance and ownership agreements through which each owner of a portion of a subdivision, be it a lot, property or any other interest, is automatically a member as a condition of ownership, and each such member is subject to charge or assessment for a pro-rated share of expenses of the association which may become a lien against the lot, property or other interest of the member.

Hospital

An institution receiving inpatients and providing medical care on a 24-hours-per-day basis. The term includes general hospitals, sanitariums, sanatoriums, and institutions in which service is limited to fields of specialization, such as cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin, cancer, mental, tuberculosis, chronic disease, and obstetrics. The facilities may also include outpatient care, ambulatory care, offices of medical practitioners, adult day care, respite care, medical day care and day care for sick children, gift shops, restaurants, and other accessory uses. A hospital does not include medical or dental offices or clinics, nursing homes, family care homes, or residential care facilities.

Hotel or motel

A building or group of buildings providing lodging accommodations to paying guests in individual guest rooms or suites, that may include related services and facilities including but not limited to: linen/housekeeping services, meeting rooms, ballrooms, beverage rooms, swimming pools, fitness facilities, and food services.

Hunting or fishing club

Private organizations of persons for hunting, fishing, and related outdoor activities. A private hunting and fishing club or lodge is characterized by membership qualifications, dues, and/or regular meetings, excluding clubs operated for profit.

I

Illumination, indirect

Illumination which reflects light from an artificial light source intentionally directed upon a surface. This shall also include silhouettes of letters or symbols placed before a background of reflected light.

Illumination, internal

Illumination provided from a source located inside or within the face of the sign.

Impervious surface

Includes all buildings or structures measured at their greatest extent and so as to include areas overhung by eaves, balconies, and other projecting features of the structure; also all paved or otherwise hard-surfaced areas such as buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), and similar hard-surfaced areas. This does not include a slatted deck, the water area of a swimming pool, green roofs, or pervious surfacing designed to allow water to penetrate in the soil or other substrate.

Improvements

Right-of-way pavements, curbs, gutters, sidewalks, paths, bikeways, sedimentation control facilities, re-vegetation, water mains, sanitary and storm sewers, drainways, gas lines, electrical and telephone lines and appurtenances, street signs, trees and lights, lot pin monuments, range point boxes, and any other similar items required for compliance with this Ordinance, including any conditions of approval.

Individual establishment or business

A single establishment or business occupying one or more buildings designed to function as a single enterprise which does not share off-street parking, driveways, or other common facilities with an adjacent establishment or development.

Industrial launderers

An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. The use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

Industrial services establishment, General

An establishment engaged in the repair or serving of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that provide these services do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory uses may include retail sales, offices, and storage.

Infill development

The development of new housing or other buildings on scattered vacant sites surrounded by developed areas.

Integral unit

Any items, equipment, or machinery which is assembled or constructed to function as a single unit, such as, but not limited to, large cranes, drilling rigs or other large vehicles, large diameter pipes or culverts, large scale motors or transformers, and the like.

Interpretation

See Section 2.5.E(1).

Junk/Salvage yard

An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk or ruined, or dismantled motor vehicles or motor vehicle parts. This use includes any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more.

Kennel

An establishment that engages in boarding, breeding, buying, grooming, letting for hire, training (for a fee), or selling of dogs or cats, excluding pet daycare and grooming, boarding, and veterinary hospitals or clinics.

L

Land disturbing activity

Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Landowner

Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner.

Landscape

An area set aside from structures and parking which is developed with natural materials (i.e. lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences and street furniture.

Large Retail Establishment

For the purposes of Section 5.7.F, Large Retail Establishment Form and Design Standards, a single-tenant building (including but not limited to those with a combination retail use) having a gross floor area of 75,000 square feet or more and devoting 60 percent or more of the total floor area to retail sales activities.

Lattice tower

See "wireless support structure or tower, lattice".

Laundromat (as accessory use)

An establishment where coin-operated or pay-per-use automatic washing machines, clothes dryers, or dry-cleaning machines are provided for use as accessory to a principal use.

Laundry, Self-service

A facility that provides coin-operated washing, drying, dry-cleaning, and/or ironing machines for hire, to be used by customers on the premises.

LDSM

The Land Development Standards Manual for the City of Kannapolis. The LDSM is published by the Engineering Department.

Letter of map change (LOMC)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Limited fuel/Oil/Gas distribution

The distribution, for compensation, of fuel oil or bottled gases such as propane or liquid petroleum in containers no greater than five gallons in volume.

Liquor sales (ABC store)

A store which sells or offers to sell alcoholic beverages, as defined in state statutes.

Livestock

Any of the following animals, whether used for personal enjoyment or for commercial purposes: horses and other ungulates, cattle and other bovine animals, ostriches, emus, rhea, and other species that the Planning Director determines to be of similar size and weight and to have similar impacts on the land.

Livestock auction sales

An area or facility at which livestock are offered for sale through retail sales or an auction.

Live-work unit

A building or portion of a building combining a dwelling unit for one or more persons with an integrated work space principally used by one or more of the dwelling unit residents.

Loading space

An area for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel.

Lot

A parcel of land described by metes and bounds and held or intended to be held in separate lease or ownership, or shown as a lot or parcel on a recorded subdivision, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger lot, parcel, or tract into two or more smaller lots or units. A "lot" includes any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership.

Lot frontage

The distance which a lot abuts on a street.

Lot line

Any boundary or boundary line which provides the legally defined limits of a lot, parcel tract, or plot.

Lot line, Front

The boundary line running along the front of a lot and separating it from the street. For undeveloped lots, the landowner has the option to request, and the Planning Director may assign, lot line that shall be considered the 'front' so long as the structure to be constructed on said lot shall have its front facing the same lot line. For the purposes of applying setbacks to existing developed lots, the front lot line shall be defined as the lot line with the shortest amount of street frontage.

Lot line, Rear

A lot line connecting the lot's interior side lot lines, or an interior side lot line and a street side lot line, along the edge of the lot opposite its front lot line.

Lot line, Side

A lot line connecting the lot's front and rear lot lines.

Lot, corner

A lot having frontage on two intersecting streets, or upon two sides of the same street, the adjacent sides of which street or streets generally contain an angle less than 135 degrees. In the case of a curved corner, the corner of the lot shall be that point on the lot line adjoining the street or Right-of-Way nearest to the point of intersection of the said tangents.

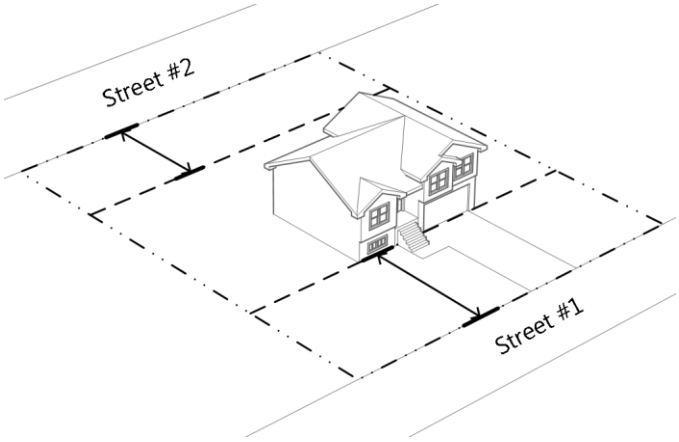
Lot, flag

A lot having no frontage or access to a street or place except by a narrow strip of land.

Lot, through (Double frontage lot)

An interior lot having frontage on two non-intersecting streets.

Figure __: Through Lot (Double Frontage Lot)



Lowest adjacent grade (LAG)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

M

Major subdivision

See Subdivision, Major.

Manufactured home

A factory-built structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used as a single dwelling unit with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. This includes any structure with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), as amended. This does not include travel trailers or recreation vehicles.

Manufactured home park or subdivision

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Manufacturing, assembly, or fabrication, Heavy

The assembly, fabrication, or processing of goods and materials using processes that ordinarily have impacts on the environment or significant impacts on the use and enjoyment of surrounding properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards. Uses may generally include manufacturing of concrete, clay, synthetic stone, stucco, and brick products, paper products, petroleum, asphalt, coal, and manufactured homes, sawmills, primary metal processing, animal slaughtering and processing, and fabricated metal product manufacturing.

Manufacturing, assembly, or fabrication, Light

The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place. Such processes shall be housed entirely within a building. Light manufacturing generally includes processing and fabrication of finished products (such as woodworking, metalworking, or printing), predominantly from previously prepared materials, and includes processes which do not require extensive floor areas or land areas.

Manufacturing, assembly, or fabrication, Medium

The assembly, fabrication, or processing of goods and materials using processes that ordinarily create minimal noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building. Uses may generally include manufacturing of abrasive products, chemicals, equipment, plastics and rubber, lime and gypsum, mineral wool/fiberglass insulation, large-scale home furniture, glass products, and cut stones.

Map repository

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Medical or dental lab

Facilities and offices for performing services to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or a medical or dental condition. Such services include, but are not limited to, the examination of bodily fluids or tissues and the production or repair of prosthetic dentures, bridges, or other dental appliances. Such facilities may be a part of doctor's or dentist's office.

Medical or dental office or clinic

A small-scale facility or office where patients are admitted for examination and treatment by one or more physicians, dentists, or other health practitioners on a short-term basis. The use includes the offices of physicians, dentists, chiropractors, optometrists, podiatrists, audiologists, speech pathologists, physical therapists, acupuncturists, psychologists, and other health practitioners. It also includes facilities providing short-term outpatient care and treatment (which may or may not be overnight), such as urgent care centers, kidney dialysis centers, ambulatory surgical clinics, outpatient pain therapy clinics, biofeedback centers, sleep disorder clinics, family planning clinics, community health clinics, and health maintenance organization (HMO) medical clinics, and hospice facilities. Such facilities that provide overnight care and treatment may include sleeping rooms for care workers and members of patients' families. This use does not include hospitals (which are much larger in scale) or blood/tissue collection centers, drug or alcohol treatment facilities, or massage therapy establishments.

Microbrewery

An establishment where beer and other malt beverages are manufactured on premise and then sold, to consumers at the brewery, to wholesalers, to retailers, and to exporters in accordance with state statutes.

Micro wireless facility

A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Mining/Extraction uses

The extraction of materials from a quarry or mine, and related activities.

Minor subdivision

See Subdivision, Minor.

Mitigation

The minimization of impacts to existing vegetation and wildlife habitat as a result of development in the resource area, and that lost vegetation and wildlife habitat are restored or recreated.

Mixed-use development

A tract of land or structure developed for both residential and nonresidential uses. Such uses may be vertically integrated within a multi-story building or horizontally integrated within a single story building or on a lot or development site.

Mobile food vending

A service establishment operated from a licensed and moveable vehicle (with or without an attached trailer), a portable vending cart, or mobile food stand that sells food and/or drink processed or prepared on-site to walk-up customers.

Model sales home/unit

A dwelling unit temporarily used for display purposes as an example of a dwelling unit to be available for sale or rental in a particular residential development, that is located within that development. Model homes may also incorporate sales or rental offices for dwellings within the development.

Monopole tower

See "wireless support structure or tower, monopole".

Motor freight facility

An area and related buildings where trucks load and unload cargo or containers on a regular basis, and where the cargo or containers are stored before and after transfer to other sites. This use may include parking and storage areas for trucks and buildings and areas for the repair of trucks associated with the terminal.

Multifamily dwelling

Any structure containing four or more dwelling units, with at least two of the units located on the same lot. Units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings.

Multi-phased development

A development containing 25 acres or more that is submitted for development permit approval to occur in more than one phase and that is subject to a master development plan through a PUD or conditional zoning district with committed elements showing the type and intensity of use of each phase. A multi-phased development is vested for a period of seven years from the time a site plan approval is granted for the development's initial phase, in accordance with N.C.G.S. § 160D-108(f).

Municipality

An incorporated city or town.

Mural

A work of art painted, drawn, or printed on an exterior surface of a building that does not contain a message advertising a business conducted, service rendered, event scheduled, goods produced or sold, or other commercial message.

N

N.C.G.S.

The North Carolina General Statutes.

Natural resource

Natural elements relating to land, water, air, plant and animal life, including, but not limited to soils, geology, topography, surface and subsurface waters, wetlands, vegetation and animal habitats.

NCDOT

The North Carolina Department of Transportation.

Net floor area

The square footage of the primary use area of a building including restrooms, hallways and stairwells, but not including normally unoccupied areas such as garages, storage rooms, furnace areas, stairways, elevator shafts, elevator lobbies, rest rooms, mechanical areas, security areas, or services areas.

Nightclub

An establishment that serves alcoholic beverages, provides live entertainment or uses a disc jockey, with a dance floor, and operates late in the evening, beyond the standard restaurant operating hours.

NIT

A unit of illuminative brightness described as a candela per square meter (cd/M2).

Non-encroachment area (NEA)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Nonprecision instrument runway

A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment for which a straight-in nonprecision instrument approach procedure has been approved or planned and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

Nursing home

A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

O

Office, Contractor

An office used by a building, heating, plumbing, electrical, or other development contractor both as an office and for the storage of a limited quantity of materials, supplies, and equipment inside the building.

Office, General business or professional

Establishments used for conducting the affairs of various businesses, professions, services, nonprofit organizations, or government agencies—including conducting the affairs of professionals, administration, business incubation, research and development, publishing (not including the printing of publications, which is categorized under "manufacturing, assembly, or fabrication, light"), employment services, call centers, record keeping, clerical work, and similar business functions. Accessory uses may include uses intended to serve the daily needs of office employees, such as restaurants, coffee shops, newspaper or candy stands.

Off-street parking/driveway (as accessory use)

A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

Outdoor display of merchandise (as accessory to a retail sales use or wholesale sales)

The placement of products or materials for sale outside the entrance of a retail or wholesale sales establishment.

Outdoor sales

Temporary display and sales of products or materials for sale outside the entrance of a retail sales establishment.

Outdoor seating/activity area (as accessory to an eating or drinking establishment use)

The provision of on-site outdoor seating or entertainment areas by an eating or drinking establishment where food or beverages are served for consumption or where outdoor entertainment takes place. The accessory use also may include outdoor seating areas on public sidewalks in front of the establishment.

Outdoor storage (as a principal use)

An establishment that provides for outdoor storage of machinery and equipment, not including vehicles.

Outdoor storage area

An area that provides for outdoor storage of machinery and equipment, not including vehicles.

P

Panel

The primary surface of a sign that carries the identifying/advertising message.

Parcel

An area of land defined by a legal description and recorded with the Register of Deeds.

Park or greenway

A park consisting of land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty, specifically excluding commercially operated amusement parks. A public park that includes athletic fields, swimming pools, playgrounds, and similar facilities is included in this definition. A greenway is a linear park that links various parts of the community with facilities such as bicycle paths and footpaths.

Parking bay

The parking module consisting of one row of parking spaces or stalls and the aisle from which motor vehicles enter and leave the spaces.

Parking facility (as an accessory use)

An off-street, hard-surfaced, area—or a structure composed of one or more levels or floors—that is used exclusively for the temporary storage of motor vehicles associated with the principal use of the lot (for residents,

employees, customers, visitors, etc.). A structured parking facility may be completely below grade or partially or totally above grade, with levels either being open to the sides (deck) or enclosed (garage).

Parking lot

Any improved area designed primarily for off-street surface parking and circulation of motor vehicles. Parking areas do not include parking structures or individual driveways for single-family, duplex, and triplex dwellings.

Parking space

A space designated for the parking or temporary storage of one motor vehicle, that is located outside of a street right-of-way, driveway, or aisle, and that provides ingress and egress of a motor vehicle to a street.

Parking structure

A building that has two or more tiers or levels used for short-term storage of motor vehicles.

Passenger terminal, Surface transportation

Any structure or transit facility that is primarily used as part of a transit system for the purpose of loading, unloading, or transferring of passengers or accommodating the movement of passengers from one mode of transportation to another. This use does not include bus stops and bus shelters, which are classified under "Utility, minor."

Pawnshop

The location at which, or premises in which, a pawnbroker, as defined by state statutes, regularly conducts business.

Pedestrian way

Any sidewalk, greenway, or other pathway designed for use by pedestrians.

Pennant

Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Performing arts center

One or more adjoining structures housing one or more of the following uses: theaters or performance space for dramatic, dance, or musical productions; schools, training centers, or practice space for artists; cinemas; and accessory office, storage, or workplace areas for any such uses. Accessory uses may also include other nonresidential uses serving patrons.

Person

Any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

Personal grooming or well-being service

A barbershop, beauty salon, or massage, nail care, or similar establishment. This term does not include a health club or pet grooming.

Personal or household goods repair

An establishment primarily engaged in the provision of repair services for computers, TVs, audio equipment, bicycles, clocks, watches, shoes, guns, canvas products, appliances, office equipment, or similar products.

Personal vehicle sales and rentals

Establishments that provide for the sale or rental (including auctions) of new or used autos, small trucks or vans, trailers, motorcycles, motor homes, or recreational vehicles. Typical examples include automobile dealers, auto malls, car rental agencies, and moving equipment rental establishments (e.g., U-Haul).

Personal vehicle service and repair

An establishment that repairs, installs, cleans, or maintains the mechanical components or the bodies of autos, small trucks or vans, motorcycles, motor homes, or recreational vehicles, or that wash, clean, or otherwise protect the exterior or interior surfaces of these vehicles.

Pet care service

The care (for a fee) associated with a household pet belonging to people not residing on the premises, that can include washing, manicuring of coat and nails, and daycare. It shall not include the breeding, training, overnight boarding, offering for sale, or the provision of medical treatment of any kind to any pet.

> **Dog daycare facility**
>
> A facility where dogs may socialize and be groomed, trained, and/or exercised, and socialized during the day, for compensation, but not kept overnight, or bred, sold, or let for hire.

Planned development

See Section 2.5.A(4).

Planning and Zoning Commission

The Planning and Zoning Commission of Kannapolis, North Carolina. The Planning and Zoning Commission may also be referred to as "the Commission" in this Ordinance. (See Section 2.3.B.)

Planning Director

The Director of the Planning Department of Kannapolis, North Carolina.

Pocket neighborhood development

A clustered group of single-family dwellings oriented around a common open space.

Portable shipping container

A large metal or wooden container, typically intended for transport by a large truck, train, or ship, that is used for the temporary storage and/or transport of personal property.

Post office

A facility that provides mailing services, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for the United States mail.

Poultry

Hens and roosters, geese, ducks, pheasant, quail, and other bird species that the Planning Director determines to be of similar size and weight and to have similar impacts on the land.

Precision Instrument Runway

A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military layout plan; any other FAA planning document, or military service's military airport planning document.

Prefabricated building sales

An establishment that is primarily engaged in the sales or leasing of manufactured homes, modular homes, or storage buildings manufactured off-site. The establishment generally includes display areas and a sales office, and may offer installation services.

Primary surface (runway)

A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared

hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be width prescribed Federal Aviation Regulations (FAR) Part 77 of the for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.

Principal building or structure

The building or structure in which is conducted the principal use of the zoning lot on which it is located. This shall include any buildings which are attached to the principal structure by a covered structure. Zoning lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

Principal use

The main or primary use of a parcel of land.

Principally above ground

At least 51% of the actual cash value of the structure is above ground.

Private recreation facility (as accessory to a residential development)

A private recreational facility for use solely by the residents and guests of a particular residential development, including multifamily and mixed-use developments.

Produce stand (as accessory use to community garden)

A temporary open-air stand or place for the seasonal selling of agricultural produce. A produce stand is portable and capable of being dismantled or removed from the sales site.

Public

Anything owned or operated by the federal government, state government, or any political subdivision.

Public assembly, indoor

Buildings or indoor facilities for the purpose of, but not necessarily limited to banquet halls, auditoriums, convention centers, conference centers, places of worship, and theaters, including kitchen for the preparation of food to be consumed at the premises.

> **Place of worship**
>
> A structure, together with its accessory buildings and uses, where people regularly assemble to conduct religious worship, ceremonies, rituals, and related education. The structure and its accessory buildings and uses are maintained and controlled by a religious body. Places of worship include chapels, churches, mosques, shrines, synagogues, tabernacles, temples, and other similar religious places of assembly. Accessory uses may include administrative offices, classrooms, meeting rooms, schools, day care facilities, and cooking and eating facilities.

Public right-of-way

Any area on or adjoining a street, road, highway, alley, or pedestrian/bicycle way or other special purpose way or utility installation owned by, or reserved to, the public for present or future public use.

Publishing facility

A commercial/light industrial use devoted to printing or bookbinding, including related large-scale storage and transshipment.

R

Rail transportation support facility

All facilities necessary or useful in rendering rail transportation service by means of rail, bus, water and any other mode of travel including, without limitation, tracks, rights of way, bridges, tunnels, subways, rolling stock for rail, motor vehicles, stations, terminals, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service.

Rainwater cistern or barrel

A catchment device to capture rainwater from a roof or other surface before it reaches the ground, which may be either above or below ground level.

Recreation facility, Indoor

A facility for indoor recreation or entertainment-oriented activities by patrons or members, such as: amusement arcades, amusement centers, aquatic centers, cinemas, health and fitness facilities, recreation courts, skating facilities, and similar uses. Accessory uses may include snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal indoor recreation uses.

Amusement arcade

An indoor commercial establishment which provides as the principal use, amusement devices or games of skill or chance, such as pinball and video games. This term shall not include establishments where amusement devices and games are accessory uses which either do not involve more than fifteen percent of the gross floor area of the establishment or involve more than two devices or games, whichever results in the greater number of games.

Amusement center

A commercially operated indoor facility providing a variety of amusement devices primarily including, but not limited to, play equipment, television games, electromechanical games, small kiddie rides, and other similar devices, and which may include food service.

Aquatic center

A complex with facilities for water sports, including swimming pools.

Cinema

A motion picture theater that is a building or part of a building, and is devoted to showing motion pictures. This can also include an open lot or part of an open lot and auxiliary facilities devoted primarily to the showing of motion pictures on a paid admission basis to patrons seated on outdoor seats.

Health and fitness facility

An indoor establishment, including saunas and steam baths, offering or providing facilities for, and instruction in, general health, physical fitness and controlled exercises such as, but not limited to, weight lifting, calisthenics and aerobic dancing, indoor track, swimming pools, and massages. Accessory uses may include changing areas, showers, bathrooms, concessions, a restaurant, and offices for personnel who work at the facility.

Recreation court (indoor)

An indoor structure used for holding court games (basketball, tennis, racquetball, squash, etc.). Accessory uses may include a concession stand, netting, exterior lighting fixtures, public bathrooms, maintenance and storage areas, and spectator seating or stands.

Skating facility (indoor)

An indoor facility, the use of which is primarily devoted to ice or roller skating. The facility may also be used as a site for competitive events and as a practice and training facility. Accessory uses may include meeting rooms, training rooms, videotape rooms, a restaurant, a pro shop, and a snack bar.

Recreation facility, Outdoor

A facility for outdoor recreation or entertainment-oriented activities by patrons or members such as: archery or baseball batting cages, athletic fields, miniature golf course, recreation courts, swimming pools, and similar uses. Outdoor recreation facilities may include accessory uses such as snack bars, pro shops, and club houses which are designed and intended primarily for the use of patrons of the outdoor recreation facility.

Archery or baseball batting cage

An outdoor area used for archers to practice the skill of archery or baseball or softball players to practice the skill of batting.

Athletic field (private)

A facility for the staging of amateur and/or professional sporting events, consisting of an open-air field and appropriate support facilities.

Miniature golf course

A recreational facility for the playing of a novelty version of golf with a putter, typically with artificial playing surfaces and theme-oriented obstacles such as bridges and tunnels.

Recreation courts

An outdoor area used for holding court games (basketball, tennis, racquetball, squash, etc.). Accessory uses may include a concession stand, netting, exterior lighting fixtures, public bathrooms, maintenance and storage areas, and spectator seating or stands.

Swimming pools (as a principal use)

A constructed pool at least three feet deep at the deep end that is filled with water and used for wading or swimming, and that is operated for profit.

Recreational vehicle

For purposes of Section 4.3.D(17), Outdoor Storage, campers, travel trailers, motor homes, and similar vehicles used for traveling and recreational activities. See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Recycling collection center

A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper, or clothing for recycling purposes conducted totally within an enclosed structure or container. This definition does not include processing except for can banks that crush cans as they are deposited.

Recycling plant

A building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

Reference level

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Register of deeds

The Cabarrus County or Rowan County Register of Deeds.

Regulatory flood protection elevation

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Residential care facility

A staffed premises (not a single-family dwelling) with paid or volunteer staff that provides full-time care to more than 6 individuals. Residential care facilities include dependent and/or independent living facilities, group homes (N.C.G.S. 131D), residential child-care facilities (N.C.G.S. 131D-10.2), assisted living residences (N.C.G.S. 131D-2), adult care homes (N.C.G.S. 131D2), retirement housing, congregate living services, assisted living services, continuing care retirement centers, skilled nursing services, and orphanages. This term excludes family care homes and nursing homes.

Restaurant

An establishment serving food and beverages where all service takes place within an enclosed building or accessory outdoor eating or food dispensing areas. Food and beverages are generally consumed on-site. In districts where it is allowed, drive-through service may also be provided.

Restaurant, Carryout

An establishment primarily engaged in the preparation of food and beverages for consumption off the premises. Carryout restaurants generally include facilities for customers to pick-up prepared food and beverages in person, which may include limited seating in waiting areas, and may also provide delivery service.

Retaining wall

A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site.

Riverine

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Runway

A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Rural retreat

A use, compatible with agriculture and/or open space, which is engaged in the study, testing, design, invention, evaluation, or development of technologies, techniques, processes, or professional and consulting services, or education and training related to such advances and services. Rural corporate retreats may be utilized for basic and applied research services and education wherein the inquiry process is conducted in a manner similar to that of institutions of higher learning or management consulting firms. Rural corporate retreat facilities may include facilities for associated training programs, seminars, conferences, and related activities.

S

Satellite dish antennae or Satellite dish

A parabolic antenna designed to receive electromagnetic transmissions from a satellite.

School, Private, charter, or parochial

An educational institution operated by an entity other than a public school district that offers a program of high school, middle school (or junior high school), and/or elementary school (including kindergarten or pre-kindergarten) instruction meeting state requirements for a school. Such uses may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

School, Public

An educational institution operated by a public school district that offers a program of high school, middle school (or junior high school), and elementary school (including kindergarten or pre-kindergarten) instruction meeting state requirements for a school. Such uses may include classrooms, laboratories, auditoriums, libraries, cafeterias,

after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

School, Technical or trade

A public or private school offering vocational or trade instruction—such as teaching of trade or industrial skills, cosmetology, clerical or data processing, barbering or hair dressing, computer or electronic technology, or artistic skills—to students and that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes, and meets the state requirements for a vocational training facility. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, and other facilities that further the educational mission of the institution. The school does not provide lodging for students or faculty.

Search ring

The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Seasonal sale

A temporary business enterprise that is conducted primarily outdoors and offers for retail sale of decorative items that are, by their nature, in particular demand during a relatively short peak season—this includes but is not limited to the sale of Christmas trees, pumpkins, flowers, and plants.

Self-Service Storage

Buildings which are composed of contiguous individual rooms which are rented to the public for the storage of personal property and which have independent access and locks under the control of the tenant. This use does not include the storage of explosive, corrosive or noxious materials, or materials that generate as dust, fumes, or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to humans, other organisms, or properties.

Sewage

The liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with flood handling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

Sewage treatment facility, Private

A facility for sewage treatment and disposal that is not owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality, or a public utility. This use does not include septic system serving a single dwelling.

Sexually-Oriented Business

Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in state statutes. A sexually-oriented business includes any adult establishment.

> **Adult bookstore**
>
> A bookstore (1) that receives a majority of its gross income during any calendar month from the sale of printed and/or video materials/publications (including but not limited to videocassettes, books, and magazines) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or (2) having as a preponderance of its printed and/or video materials/publications materials that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult establishment

An adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult live entertainment business, or massage business as defined in this section.

Adult live entertainment business

An establishment or business where adult live entertainment is shown for observation by patrons; or any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

Adult motion picture theater

An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or described anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theater does not include any adult mini-motion picture theater as defined in this section.

Adult mini-motion picture theater

An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

Massage

The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

Massage business

An establishment or business where massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Massage therapy establishments shall be excluded from these provisions provided the applicant is a therapist licensed by the state.

Sexually oriented devices

Without limitation, any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities. It shall not mean any contraceptive device.

Specified anatomical areas

Less than completely and opaquely covered (1) human genitals, pubic region, (2) buttock, or (3) female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if complete and opaquely covered.

Specified sexual activities

Human genitals in a state of sexual stimulation, or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

Shooting range (indoor)

An indoor facility used for firearm target practice, competitions, or similar uses.

Shopping center

A group of stores planned and designed for the site on which it is built, functioning as an integrated unit, with off-street parking, landscaped areas, and pedestrian malls or plazas provided on the property as an integral part of the unit.

Short-term rental (as principal use)

Rental of an entire dwelling unit by an owner or operator with no principal resident residing on the premises that provides lodging for pay, for less than a continuous period of 30 days.

Short-term rental, Homestay

A private, owner-occupied dwelling in which guest rooms are rented to transient visitors for periods of less than 30 days and in which the frequency and volume of paying guests is incidental to the primary use of the building as a private residence.

Sidewalk

The portion of a street or cross walkway, paved or otherwise surfaced, intended for pedestrian use only.

Sign

Any display of letters, words, numbers, symbols, emblems, objects, pictures, or any combination thereof made visible for the purpose of attracting attention or of making something known, whether such display be made on, attached to, or constructed as part of a building, structure, vehicle, or object. This term does not include murals.

Sign permit

See Section 2.5.C(6).

Sign, A-frame

A portable sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form the base on which the sign stands.

A-frame sign

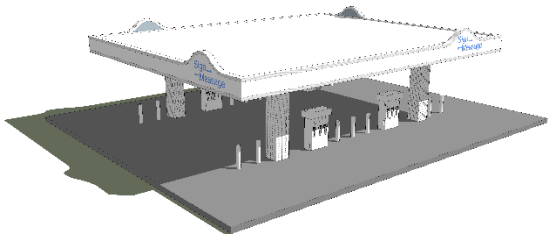
Sign, arm

A freestanding, ground mounted sign comprised of a vertical post to which a perpendicular arm is attached and from which a sign hangs.

Sign, canopy

A sign that is suspended from, attached to, supported from, applied to, or constructed as part of a canopy or awning.

Canopy sign



Sign, changeable copy

A sign on which message copy is changed manually in the field through attachment of letters, numbers, symbols and other similar characters of changeable pictorial panels. Also known as a reader-board sign.

Sign, facsimile

A sign consisting of an oversized, three-dimensional representation of an object, such as a chicken bucket, automobile (or automobile part), or human figure.

Sign, feather

A temporary sign attached along its edge on a single, flexible pole, and which generally resembles the shape of a feather, sail, bow, teardrop, or other shape.

Sign, fence

A sign mounted on, attached to, or constructed as part of a fence or similar structure.

Sign, ground

A free-standing sign with its base or its supports mounted directly to the ground having either (1) two sign faces that are located back-to-back on a single structure, or (2) as an option only for entrances to subdivisions (residential and non-residential), two separate single-faced signs.

Sign, inflatable

A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention.

Sign, monument

A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than vertical posts. A monument sign structure base is on the ground or a maximum of 36 inches above the adjacent grade. The width of the top of a monument sign is equal to or less than the width of the bottom of the sign.

Monument signs

Sign, off-premise

A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located. This definition includes Outdoor Advertising or "Billboard" signs.

Sign, on-premise

A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or the commodity sold on the premises where the sign is located.

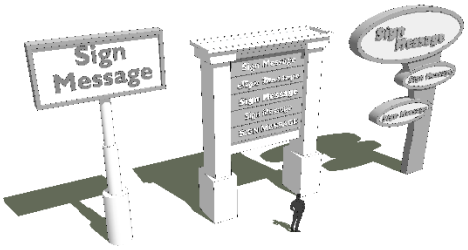
Sign, outdoor advertising (billboard)

A permanently installed sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located.

Sign, pole

A freestanding, ground mounted sign attached to one or more vertical posts, with the base of the actual sign at least 48 inches above grade.

Pole signs



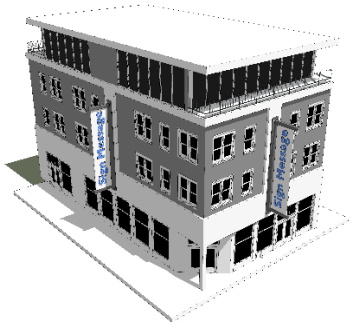
Sign, portable

Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground. Portable signs also include signs on wheels or on portable structures such as trailers, tent signs, A-frame or T-shaped signs and normal advertising placed on motor vehicles which are not used regularly and are placed in such a manner as to attract attention.

Sign, projecting

A sign which projects from a structure into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the building.

Projecting signs



Sign, roof

Any sign erected, constructed, and/or painted wholly or partially on or above the roof of a building.

Sign, temporary

A sign not intended to be displayed on a permanent basis and generally constructed of lightweight materials and installed in a manner so as to be easily removed.

Sign, T-shaped

A portable sign comprised of one or more panels or faces joined at the bottom to a perpendicular base on which the sign stands.

T-shaped sign

Sign, vehicle

See Sign, Portable.

Sign, wall

A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

Sign, window

A sign which is applied to the building glass area located such that the identifying/advertising message, symbol, insignia, visual representation, logotype or any other form which communicates information can be read from off-premise.

Single-Family Attached Dwelling

Any structure, other than a townhouse, containing at least two but not more than four dwelling units, with each dwelling unit located on a separate lot and separated from abutting dwelling units in the same structure by an unpierced wall extending from ground to roof.

Single-Family Detached Dwelling

A single detached dwelling on a lot, other than a manufactured home, that contains a single dwelling unit, that sits on a permanent foundation.

Site plan

See Section 2.5.B(1).

Site specific vesting plan

A plan submitted to the City in which describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan shall be in the form of any of the following plans or approvals: a PD Plan, a subdivision plat, a special use permit, or a conditional zoning district conceptual plan. A variance shall not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it shall not constitute a site-specific vesting plan.

Small-scale aerial distribution

The use of drones or similar devices weighing less than 100 pounds on takeoff, including everything that is on board or otherwise attached to the drone, to enable the receipt, storage, and distribution of packages by air. A Condition of approval for a Special Use Permit will require FFA Approval.

Small wireless facility

A wireless facility that meets both of the following qualifications:

1. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.

2. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet.

For purposes of determining equipment volume under this definition, the following types of ancillary equipment are not included: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

Solar energy collection facility, Large scale

A facility consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in water heating or space heating and cooling, or that collects solar energy and converts it into electricity. As a principal use, a solar energy collection system is designed to meet demands for a large area and is typically mounted on the ground.

Solar energy conversion system (small-scale)

Equipment for the collection of solar energy or its conversion to electrical energy for use on the same property, or for incidental sale to a public utility, when that equipment is accessory to a principal use of the property. Components are typically mounted on the roof(s) of principal or accessory structures, but may be mounted on other parts of structures, or on the ground.

Solid waste

Any hazardous or nonhazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following:

1. Fowl and animal fecal waste;
2. Solid or dissolved material in any of the following:
    a. Domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters;
    b. Irrigation return flows; or
    c. Wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1251 et seq.) and permits granted under N.C.G.S. 143-215.1 by the Environmental Management Commission;
3. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the N.C.G.S.;
4. Any source, special nuclear or byproduct material as defined by the North Carolina Radiation Protection Act (N.C.G.S. 104E- 1 through 104E- 23); and
5. Mining refuse covered by the North Carolina Mining Act (N.C.G.S. 74-46 through 74-68), and regulated by the North Carolina Mining Commission (as defined under N.C.G.S. 143B-290).

Solid waste collection and disposal

A facility that is designed or operated for the purpose of collecting and disposing of nonhazardous solid waste on or in the land, at which solid waste is disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Ordinance.

Land clearing and inert debris landfill

A facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash. For purposes of this definition, "land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material.

Landfill

A solid waste disposal facility designed to meet the minimum standards of the state wherein refuse and other waste defined by state standards is disposed of by using acceptable landfill engineering technology.

Solid waste disposal facility

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Solid waste disposal site

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Special event

A temporary commercial or festive activity or promotion at a specific location that is planned or reasonably expected to attract large assemblies of persons. Temporary special events include but are not limited to, carnivals, festivals, circuses, music fairs or concerts, tent revivals, art shows, crafts shows, rodeos, corn mazes, corporate receptions, and weddings. "Special event" does not include temporary or seasonal retail sales of goods, products, or services, such as temporary sales of Christmas trees and other similar seasonal goods.

Special flood hazard area

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Special use

A use which may be appropriate in a particular zoning district, but, because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. A use in considered a special use if designated as such by Section 4.2.B, Principal Use Table.

Special use permit

See Section 2.5.A(5).

Spinner

A wind activated, propeller-type device, made visible for the purpose of attracting attention.

Stable, Private

A detached accessory building for the keeping of horses, mules, or ponies owned by the occupants of the premises and not kept for remuneration, hire, or sale.

Stadium, arena, or amphitheater

A building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings. Such uses may or may not include lighting facilities for illuminating the field or stage area, concessions, parking facilities, and maintenance areas.

Storage building

Structures used for the storage of goods, but not including temporary storage containers such as portable on-demand units or tractor trailers used for storage.

Stormwater

The flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt.

Stormwater management permit

See Section 2.5.C(10), Stormwater Management Permit.

Streamer

A string or strip of miniature or full-size pennants or flags which may or may not be suspended between two points.

Structural alteration

Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any complete rebuilding of the roof or exterior walls.

Structure

Anything constructed or erected which requires location on or in the ground or is attached to something having a location on the ground, or which is defined as a structure in the building code. Structures include, but are not limited to gas, liquid, and liquefied storage tanks, modular homes, manufactured homes, or other building of any kind. Structures do not include ditches and their appurtenances, poles, lines, cables, or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, landscaping materials or fences.

For purposes of Section 3.8.C, Airport Overlay (AO) District, An object constructed or installed by humans, including, but without limitation, buildings, towers, smokestacks, earth formations and overhead transmission lines.

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Studio/School

A facility used to produce and/or provide instruction in art, music, dance, or the martial arts.

Subdivision

All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future), including all divisions of land involving the dedication of a new street or a change in existing streets. The following are not included within this definition:

- The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards set forth in this Ordinance;
- The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors;
- The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards set forth in this Ordinance; and

- The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under N.C.G.S. Chapter 29.

Subdivision, Major

A subdivision (see definition of Subdivision) that is not a minor subdivision (see definition of minor subdivision and Section 2.5.B(3)).

Subdivision, Minor

A subdivision (see definition of Subdivision) that does not involve new public street right-of-way dedications, except widening of existing, platted street rights-of-way (see Section 2.5.B(2)).

Substantial damage

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Substantial improvement

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Substantial modification

For purposes of Section 4.2.D(4)a.1, Wireless Support Structure, Collocation of Antenna on Existing Structure, the mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

1. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
2. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
3. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Support structure

See "wireless support structure".

Swimming pool (accessory use)

An enclosure at least three feet deep at the deep end with a surface area exceeding 250 square feet, that is filled with water and used for wading or swimming, and that is accessory to a principal use.

Swine farm

A tract of land devoted to raising 250 or more animals of the porcine species.

T

Tattoo or body-piercing establishment

An establishment where designs, letters, figures, body piercing, or other marks are placed on the skin of any person, using ink or other substances that result in the permanent coloration or piercing of the skin by means of use of needles or other instruments designed to contact or puncture the skin.

Technical bulletin

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Temporary family health care structure

A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and N.C.G.S. § 143-139.1(b).

Temporary use

A use that is established for one year or less, with the intent to discontinue such use upon the expiration of such time, and that does not involve the construction or alteration of any permanent structure.

Temporary use permit

See Section 2.5.C(4).

Text amendment

See Section 2.5.A(1).

Tiny House Development

A clustered group of single-family dwellings, not exceeding 600 square feet of gross floor area, oriented around a common open space.

Tobacco and vape products store

An establishment primarily engaged in the retail sale of cigarettes, cigars, tobacco, other smokers' supplies, or vape products.

Tower

See "wireless support structure".

Towing service

An establishment providing the service of transporting individual motor vehicles and providing temporary storage of the vehicles, whether operable or temporarily inoperable, in an impound yard or storage area. This does not include junk/salvage yards.

Townhouse

A residential structure containing four or more dwelling units that are attached horizontally through, and entirely separated by, common walls, with each dwelling unit occupying space from the lowest floor to the roof of the building, and located on a separate lot. Each unit has its own entrance and is a minimum of two stories.

Tree

For purposes of Section 3.8.C, Airport Overlay (AO) District, any object of natural growth.

Tree removal permit

See Section 2.5.C(3).

Triplex

A residential structure located on one lot and containing exactly three dwelling units that, when arranged side-by-side, are separated from each other by an unpierced wall extending from ground to roof. The units shall be attached and one story, or stacked vertically over three stories, with one unit on each story.

U

Use

The purpose or purposes for which land or a building is occupied, maintained, arranged, designed, or intended.

Utilities

Services and facilities provided by public agencies and public monopolies such as electrical and gas service, water (domestic and irrigation), sewage disposal, drainage systems, and solid waste disposal.

Utility facility, Major

A structure or facility that is a relatively major component of an infrastructure system providing community- or region-wide utility services. Examples of major utility facilities include water treatment plants, water towers, wastewater treatment plants, solid waste facilities, recycling drop-off centers, gas compressor stations, electrical substations, and other similar facilities. This use does not include telecommunications facilities or towers.

Utility facility, Minor

A structure or facility that by itself is a relatively minor component of an infrastructure system providing local facilities and services that needs to be in or near the neighborhood or use type where the service is provided. Examples of minor utility facilities include water and sewage pipes and pump stations, stormwater pipes and retention/detention facilities, telephone lines and local exchanges, bus stops and bus shelters, electric lines and transformers, gas transmission pipes and valves, and CATV lines.

Utility pole

A structure that is designed for and used to carry lines, cables, wires, lighting facilities or small wireless facilities for telephone, cable television, or electricity, or to provide lighting or wireless services that is not owned by the City.

V

Valance

A short apron which is designed and installed as part of a canopy/awning and is usually, but not necessarily vertical.

Variance – Watershed Protection

See Section 2.5.D(2).

Variance – Zoning

See Section 2.5.D(1).

Vegetated roof

A roof or portion of a roof that is covered with vegetation planted in a growing medium over a waterproofing membrane, and that may include additional layers, such as a root barrier, and drainage and irrigation systems.

Vehicle fueling station

An establishment engaged in the retail sale of motor vehicle fuel that is stored on site, such as gasoline, diesel fuel, natural gas, hydrogen, and electricity. Accessory uses may include a convenience retail store, and light vehicle repair and maintenance. This use does not involve the provision of major repairs such as vehicle bodywork or painting or repair of engines.

Vested right, Common law

Any vested right established by the North Carolina courts under the common law.

Vested right, Statutory

The right to undertake and complete the development and use of property under the terms and conditions of approval and the development regulations in effect at time of approval for:

1. A site-specific vesting plan;
2. A multi-phased development; or
3. A development for which vested rights are established under a development agreement authorized in accordance with Article 10 of N.C.G.S. Chapter 160D.

Veterinary hospital or clinic

A facility used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals and preventive care for healthy animals. Accessory uses may include animal grooming services, short-term boarding, and limited retail sales of pet-related merchandise.

W

Warehouse distribution and storage

A facility primarily engaged in the storage and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

Water surface elevation (WSE)

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Watercourse

See separate definition of this term that applies to the FPO district regulations in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

Watercraft vehicle

For purposes of Section 4.3.D(17), Outdoor Storage, boats, jet skis, and other vehicles designed to be operated on the water.

Wholesale, Florist and Nursery Supply

A facility for the storage, distribution, and handling of garden plants, shrubs, trees, or vines for wholesale trade, and not for direct sale to the general public.

Wholesale, General

A facility for the storage, distribution, and handling of products, supplies, and equipment offered for wholesale distribution, and not for direct sale to the general public.

Wholesale, Heavy or Hazardous Materials

A facility for the storage, distribution, and handling of flammable, hazardous, or noxious materials and equipment offered for wholesale distribution, and not for direct sale to the general public.

Wind energy conversion system (small-scale)

A facility consisting of one or more rotating wind turbines and related equipment that converts the kinetic energy in wind into mechanical energy. A small-scale wind energy conversion system as an accessory use is intended to primarily reduce on-site consumption of utility power for a home or business.

Wireless facility

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following:

1. The structure or improvements on, under, within, or adjacent to which the equipment is collocated;
2. Wireline backhaul facilities;
3. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna; or
4. Amateur radio antennas, also called ham radio antennas.

Wireless infrastructure providerAny person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

Wireless services

Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless services provider

A person who provides wireless services.

Wireless support structure

A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. The term does not include utility poles. Also referred to as "support structures".

Wireless support structure or Tower, Lattice

Three- or -four-legged steel girded structures typically supporting multiple communications users and services generally ranging from 60 to 200 feet in height.

Wireless support structure or Tower, Monopole

Single pole design, approximately three feet in diameter at the base narrowing to approximately one and a half feet at the top, generally ranging from 25 to 150 feet in height.

Wireless telecommunication services

See "wireless services".

Yard sale

An outdoor sale of merchandise conducted by a household or civic group, which is located entirely upon a lot on which there is residential or institutional development. Goods sold are limited primarily to used merchandise donated by the yard sale participants.

Z

Zoning clearance permit

See Section 2.5.C(1).

Zoning Map amendment

See Section 2.5.A(2).

Zoo

A non-profit or public facility, indoor or outdoor, where non-domestic animals are kept for viewing by the public. Accessory uses mu include offices for zoo personnel, limited commercial facilities to serve visitors of the zoo, and bathroom facilities.

APPENDIX A: SUPPLEMENTAL LANDSCAPING REQUIREMENTS

Section 1: Landscaping Plan Requirements

Landscaping plans required in accordance with Section 5.3.D, Landscaping Plan, shall include the following minimum information, together with any additional information the Planning Director may require in order to determine compliance with the standards in Section 5.3, Landscaping and Buffer Standards:

- Show all buildings, walkways, vehicular use areas, utility areas, stormwater retention/detention areas, sight triangles, and miscellaneous site structures (Minimum scale of 1" = 40').
- Show current zoning and land use of all adjacent property.
- Show location, name, and size of all existing Specimen Trees, as defined in Section 5.3.J(3).
- Planting areas drawn to scale with a list of the botanical and common names, and size of all plants designated for each area.
- Location, name, and size of all existing trees, shrubs, groundcover, and other plant materials that are to be incorporated as a part of the landscape plan.
- Location and width of landscaped buffer strips, including height of berms.
- All landscape plans shall include a summary tabulation of all landscape requirements.
- Show all existing and proposed paved surfaces, curbs, steps, and grade changes.
- Location and sizes of any irrigation facilities used to maintain planting areas.
- Location of any overhead powerlines or easements on the property.

Section 2: Acceptable Plant Species

The following list of trees and shrubs represent the acceptable plant species that may be used to comply with this Ordinance. Other species may be allowed with staff approval.

Table A-2: Acceptable Plant Species

* - Not allowed for required planting | **- Not recommended for required planting | † - Under 15' tall only.

Common Name	Scientific Name	Shade Tolerant	Tolerates Poor Drainage	Native	Blooming	Foliage (Deciduous, Semi-deciduous, or Evergreen)	Placeholder
Trees – Large Maturing (50' + H)							
Arborvitae, 'Green Giant'	Thuja 'Green Giant'		x			E	
Ash, Green	Fraxinus pennsylvanica	x		x		D	

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* - Not allowed for required planting | **- Not recommended for required planting | † - Under 15' tall only.

Common Name	Scientific Name	Shade Tolerant	Tolerates Poor Drainage	Native	Blooming	Foliage (Deciduous, Semi-deciduous, or Evergreen)	Placeholder
Ash, White	Fraxinus americana			x		D	
Baldcypress	Taxodium distichum		x	x		D	
Beech, American	Fagus grandiflora			x		D	
Birch, River	Betula nigra	x	x	x		D	
Black Gum	Nyssa sylvatica			x		D	
Cedar, Deodar	Cedrus deodara					E	
Cedar, Eastern Red	Juniperus virginiana			x		E	
Cryptomeria, Japanese	Cryptomeria japonica		x			E	
Dawn Redwood	Metasequoia glyptostroboides					S	
Elm, Princeton	Ulmus americana 'Princeton'					D	
Elm, Lacebark	Ulmus parvifolia	x	x			D	
Gingko	Gingko biloba	x	x			D	
Hackberry, Common	Celtis occidentalis	x	x	x		D	
Hackberry, Sugar	Celtis laevigata	x	x	x		D	
Hemlock, Eastern	Tsuga canadensis	x		x		E	
Hickory, Bitternut	Carya cordiformis			x		D	
Hickory, Pignut	Carya glabra			x		E	
Hickory, Shagbark	Carya ovata			x		E	
Holly, American	Ilex opaca	x		x		E	
Honeylocust, Shademaster**	Gleditsia tricanthos inermis 'Shademaster'			x		D	
Hornbeam, European	Carpinus betulus	x	x			D	
Kentucky Coffeetree	Gymnocladus dioicus	x		x		D	
Linden, Little Leaf	Tilia cordata	x	x		x	D	
Magnolia, Cucumber	Magnolia acuminata			x	x	D	
Magnolia, Southern	Magnolia grandiflora		x	x	x	E	
Maple, Freeman	Acer x fremanii	x		x		D	
Maple, Red *	Acer rubrum	x	x	x		D	
Maple, Sugar	Acer saccharum	x		x		D	
Oak, Black	Quercus velutina	x		x		D	

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Common Name	Scientific Name	Shade Tolerant	Tolerates Poor Drainage	Native	Blooming	Foliage (Deciduous, Semi-deciduous, or Evergreen)	Placeholder
Oak, Fastigiante English	Quercus robur 'Fastigiata'					D	
Oak, Laurel	Quercus laurifolia	x		x		D	
Oak, Live	Quercus virginiana	x	x	x		E	
Oak, Northern Red*	Quercus rubra	x		x		D	
Oak, Nuttall	Quercus nuttalii	x		x		D	
Oak, Overcup	Quercus lyrata	x	x	x		D	
Oak, Scarlet**	Quercus coccinea			x		D	
Oak, Shumard	Quercus shumardii	x		x		D	
Oak, Southern Red	Quercus falcata	x		x		D	
Oak, Swamp White	Quercus bicolor	x	x	x		D	
Oak, Water	Quercus nigra		x	x		D	
Oak, White	Quercus alba	x		x		D	
Oak, Willow	Quercus phellos	x	x	x		D	
Pecan	Carya illinoensis			x		D	
Persimmon	Diospyros virginiana	x		x		D	
Pine, Austrian	Pinus nigra		x			E	
Pine, Japanese Black	Pinus thunbergi					E	
Pine, Loblolly	Pinus taeda		x	x		E	
Pine, Shortleaf	Pinus echinata			x		E	
Pine, Virginia	Pinus virginiana			x		E	
Poplar, Tulip	Liriodendron tulipfera	x	x	x	x	D	
Sweetgum, Fruitless	Liquidambar stickful 'Rotundiloba'	x	x	x		D	
Sweetgum, Slender	Liquidambar styraciflua 'Slender Silhouette'	x	x	x		D	
Zelkova, Japanese *	Zelkova serrata	x				D	
Trees – Medium Maturing (30' – 50'H)							
Arborvitae, American	Thuja occidentalis		x	x		E	
Carolina Silverbell	Halesia carolina	x		x	x	D	
Chinese Pistache	Pistacia chinensis	x	x			D	
Crape Myrtle (Biloxi, Natchez)*	Lagerstroemia					D	

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* - Not allowed for required planting | **- Not recommended for required planting | † - Under 15' tall only.

Common Name	Scientific Name	Shade Tolerant	Tolerates Poor Drainage	Native	Blooming	Foliage (Deciduous, Semi-deciduous, or Evergreen)	Placeholder
Dogwood, Flowering	Cornus florida	x		x	x	D	
Dogwood, Kousa	Cornus kousa	x		x	x	D	
Fringetree, Chinese	Chionanthus retusus	x			x	D	
Golden Raintree	Koelreuteria paniculata				x	D	
Hawthorne, Green	Crataegus viridis 'Winter King'		x	x	x	D	
Holly, 'Emily Brunner'	Ilex X 'Emily Brunner'	x				E	
Holly, 'Nellie R. Stevens'	Ilex X 'Nellie R. Stevens'	x				E	
Holly, Savannah	Ilex X attenuata 'Savannah'		x	x		E	
Hornbeam, American	Carpinus caroliniana	x	x	x		D	
Maple, Hedge	Acer campestre		x			D	
Maple, Paperbark	Acer griseum					D	
Maple, Trident	Acer buergeranum	x				D	
Redbud, Chinese	Cercis chinensis	x			x	D	
Sourwood	Oxydendrum arboreum	x		x	x	D	
Trees – Small Maturing (Up to 25'H)							
Arborvitae, Emerald Green	Thuja occidentalis 'Emerald Green'					E	
Buckeye, Bottlebrush	Aesculus parviflora	x		x	x	D	
Camellia, Sasanuqa	Camellia sasanqua	x			x	E	
Cherry, Kwanzan	Prunus serrulata 'Kwanzan'				x	D	
Cherry, Snowgoose	Prunus serrulata 'Snowgoose'				x	D	
Cherry, 'Okame'	Prunus X 'Okame'				x	D	
Cherry, Weeping	Prunus subhirtella pendula				x	D	
Cherry, Yoshino	Prunus X yedoensis				x	D	
Cherrylaurel, Carolina	Prunus caroliniana	x	x	x	x	E	
Crabapple, Japanese Flowering	Malus floribunda				x	D	
Crape Myrtle	Lagerstroemia					D	

Table A-2: Acceptable Plant Species

* - Not allowed for required planting | **- Not recommended for required planting | † - Under 15' tall only.

Common Name	Scientific Name	Shade Tolerant	Tolerates Poor Drainage	Native	Blooming	Foliage (Deciduous, Semi-deciduous, or Evergreen)	Placeholder
Dogwood, redtwig	Cornus sericea f. baileyi		x	x	x	D	
Dogwood, Rutger's Hybrid	Cornus kousa X florida	x	x		x	D	
Filbert, American	Corylus americana	x		x		D	
Fringetree	Chionanthus virginiana		x	x	x	D	
Hawthorne, Washington	Crataegus phaenopyrum		x	x	x	D	
Holly, Foster	Ilex X attenuata 'Fosteri'		x	x		E	
Holly, Yaupon	Ilex vomitoria	x		x		E	
Magnolia, Star	Magnolia stellata		x	x	x	D	
Magnilia, Lily Flowered	Magnolia liliiflora	x			x	D	
Magnolia, 'Little Gem'	Magnolia grandiflora 'Little Gem'		x	x	x	E	
Magnolia, 'Merrill'	Magnolia X loebneri 'Merrill'		x	x	x	D	
Magnolia, Saucer	Magnolia X soulangiana		x	x	x	D	
Maple, Armur 'Flame'	Acer tataricum ginnala 'Flame'		x			D	
Maple, Japanese	Acer palmatum	x				D	
Maple, Purplebow/Shantung	Acer truncatum					D	
Plum, Purpleleaf	Prunus cerasifera 'Atropurpurea'				x	D	
Redbud, Eastern	Cercis canadensis	x	x	x	x	D	
Serviceberry	Amelanchier arborea			x	x	D	
Waxmyrtle	Myrica cerifera	x		x	x	D	
Shrubs (* denotes evergreen)							
Burford holly *	Ilex cornuta burfordi						
Camellia *	Camellia japonica						
Convex Japanese holly *	Ilex crenata `convexa'						
Dwarf burford holly *	Ilex cornuta burfordi nana						
Emily brunner holly *	Ilex "Emily Brunner"						
English holly *	Ilex aquifolium						

Table A-2: Acceptable Plant Species

* - Not allowed for required planting | **- Not recommended for required planting | † - Under 15' tall only.

Common Name	Scientific Name	Shade Tolerant	Tolerates Poor Drainage	Native	Blooming	Foliage (Deciduous, Semi-deciduous, or Evergreen)	Placeholder
Evergreen euonymus *	Euonymus japonicus						
Flowering quince	Chaenomeles speciosa						
Forsythia	Forsythia intermedia						
Glenn dale azalea *	Azalea hybrida						
Glossy abelia *	Abelia grandiflora						
Hetzi Japanese holly *	Ilex crenata `hetzi'						
Hetzi jumper *	Jumperus chinesis hetzi						
Indian azalea *	Azalea indica						
Inkberry holly *	Ilex glabra						
Japanese aucuba *	Aucuba japonica						
Kaempferi azalea *	Azalea obtusum Kaempferi						
Laurel *	Laurus nobilis						
Loropetalum *	Loropetalum chinense						
Lusterleaf holly *	Ilex latifolia						
Oakleaf hydrangea	Hydrangea quercifolia						
Perny holly *	Ilex pernyi						
Pfitzer juniper *	Juniperus chinensis pfitzeriana						
Roundleaf Japanese holly *	Ilex crenata `rotundifolia'						
Sasanqua Camellia *	Camellia sasanqua						
Witch-hazel	Hammamelis virginiana						
Yaupon holly *	Ilex vomitoria						
Wax myrtle *	Myrica cerifera						
Wild olive *	Osmanthus americana						
Chinese photinia *	Photinia serrulata						
Mountain andromeda *	Pieris floribunda						
Japanese andromeda *	Pieris japonica						
Pittosporum *	Pittosporum tobira						
English laurel *	Prunus laurocerasus						

Table A-2: Acceptable Plant Species

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Common Name	Scientific Name	Shade Tolerant	Tolerates Poor Drainage	Native	Blooming	Foliage (Deciduous, Semi-deciduous, or Evergreen)	Placeholder
Podocarpus *	Podocarpus macrophyllus maki						
Narrow leafed English laurel *	Prunus laurocerasus angustifolia						
Scarlet firethorn	Pyracantha coccinea						
Yeddo-hawthorn *	Raphiolepis umbellata						
Reeves spirea	Spirea cantoniensis						
Thunberg spirea	Spirea thunbergii						
Bridalwreath spirea	Spirea prunifolia plena						
Vanhoutte spirea	Spirea vanhouttei						
Japanese yew *	Taxus cuspidata						
Leatherleaf viburnum *	Viburnum rhytidophyllum						
Laurestinus viburnum *	Viburnum tinus						

Section 3: Invasive Plant Pest Species

Table A-3: Invasive Plant Species

Common Name	Scientific Name
Trees	
Bradford Pear	Pyrus Calleryana 'Bradford'
Mimosa	Albizia Julibrissin
Princess Tree	Paulownia Tomentosa
Tree-of-Heaven	Ailanthus Altissima
Shrubs	
Autumn Olive	Elaeagnus Umbellata
Multiflora Rose	Rosa Multiflora
Nandina, Heavenly Bamboo, Sacred Bamboo	Nandina Domestica
Privet, Chinese	Ligustrum Sinense
Rose-of-Sharon, Shrub Althea	Hibiscus Syriacus

Table A-3: Invasive Plant Species

Common Name	Scientific Name
Grass and Forbs	
Bamboo	Bambusa spp., Phyllostachys spp., Pseudosasa spp.
Chinese Lespedeza	Lespedeza Cuneata, Sericea Lespedeza
Common Reed	Phragmites Australis
Gill-Over-Ground, Ground Ivy	Glechoma Hederacea
Japanese Knotweed	Polygonum Cuspidatum
Japanese Stiltgrass, Nepalese Browntop	Microstegium Vimineum
Johnsongrass	Sorghum Halepense
Wild Garlic, Crow Garlic	Allium Vineale
Vines	
Air Potato, Chinese Yam, Cinnamon Vine	Dioscorea Oppositifolia
English Ivy	Hedera Helix
Japanese Honeysuckle	Lonicera Japonica
Kudzu	Pueraria Montana
Morning-flory, Common	Ipomoea Purpurea
Periwinkle	Vinca Minor / Vinca Major
Porcelainberry	Ampelopsis Breuipedunculata
Wisteria, Chinese and Japanese	Wisteria Sinensis / Wisteria Floribunda

Section 4: Preferred Native Plant Species

Table A-4 below, identifies preferred native plant species for use in landscaping.

Table A-4: Preferred Native Plan Species

Plant Name	Plant Description/Information
Canopy Trees	
Tulip poplar (Liriodendron tulipifera)	Produces numerous seeds that are foraged upon by birds in the winter. It produces large yellow-orange and greenish flowers in the late spring that may be visited by hummingbirds. Unless you look up, though, you'll never notice them. This species tends to drop a lot of smallish twigs but grows quickly, is long-lived, and has few health issues.
Oaks (Quercus spp.)	Produce acorns which are an important food source for squirrels, chipmunks, deer, and wild turkeys. More than 500 species of butterflies and moths are known to use oaks as their larval food source. We have many species of oaks native to our area. Here are a few favorites: Bur oak (Quercus macrocarpa) produces large acorns with massive, fringed caps. It is a slow grower. Water oak (Quercus nigra) grows quickly and holds onto its tardily deciduous green leaves well into the winter.

Table A-4: Preferred Native Plan Species

Plant Name	Plant Description/Information
	Northern red oak (Quercus rubra) and Schumard's oak (Quercus schumardii) are both fast growers that produce nice, red color in the fall.
Wild black cherry (Prunus serotina)	Leaves are food for almost 300 species of butterfly and moth larvae, their nectary flowers are magnets for many flying insects, and their fruits are a delicious treat for birds. This tree grows quickly and is very drought-tolerant.
Understory Trees	
Dogwood (Cornus florida)	Produces clusters of greenish-white flowers in the spring. By late summer, the trees are covered with bright red berries that are an important food source for birds and squirrels. The leaf color change is quite early in the fall, producing shades of red and purple. The tree is slow-growing, maxing out around 20-25'. The tree shape is somewhat rounded or even parasol-shaped. The roots tend to be shallow, so avoid spraying herbicides on the ground underneath.
Redbud (Cercis canadensis)	Flowers line the branches with pinkish-purple in the spring, providing a nectar source for bees and butterflies. The seeds are eaten by some birds, mice, and squirrels. This tree grows at a moderate rate to about 20' tall and its branches may spread just as wide.
Sourwood (Oxydendrum arboreum)	Produces catkins of small, white, bell-shaped flowers in the summer but really shows its stuff in the fall when its leaves begin to turn pinkish before turning a beautiful crimson color. This species may get 20-30' tall, and maintains a relatively slender silhouette.
Shrubs (Best for Dry Shady Areas)	
Oak-leaf hydrangea (Hydrangea quercifolia)	Can get to be about 8' x 8', but there is a smaller cultiver called 'PeeWee' which stays around 4-5'. The large leaves are joined in the summer by big poofy clusters of white, aromatic flowers that provide food for tiny pollinators. The leaves turn a beautiful red in the fall and remain on the plant throughout the fall.
Sweetshrub (Calycanthus floridus)	Will max out between 6-10' tall. The maroon flowers in the late spring develop into interesting dangling seed capsules. It is a very hardy plant.
Wax myrtle (Myrica cerifera or Morella cerifera)	An evergreen shrub with light green leaves frequently used for screening. It typically gets to be 10-12' tall. Birds love the shelter and tiny berries it provides.
Shrubs (Best for Moist Shady Areas)	
Bottlebrush buckeye (Aesculus parviflora)	A loosely branching shrub that can get to be about 8' x 10', but it is a slow grower. It produces spikes of white, nectar-licious flowers in the summer.
Shrubs (Best for Dry Sunny Areas)	
Golden St. John's wort (Hypericum frondosum)	Loved for its abundant yellow flowers all summer. The leaves are turn darker and sometimes purplish in the fall-winter, but typically only fall off if the winter is severe. It will get to be 4-6' tall and wide.
Wax myrtle (Myrica cerifera or Morella cerifera)	An evergreen shrub with light green leaves frequently used for screening. It typically gets to be 10-12' tall. Birds love the shelter and tiny berries it provides.
Shrubs (Best for Moist Sunny Areas)	
Fothergilla 'Mt. Airy'	A dwarf hybrid of two species, this plant produces poofs of white flowers in the spring and then is magnificent again in the fall when its leaves turn gorgeous shades of red and orange. It will get to be about 3-5' tall and wide. While it does well in moist areas, it can do just fine in average soils and seems to be fairly drought-tolerant, as well.

Table A-4: Preferred Native Plan Species

Plant Name	Plant Description/Information
Summersweet (Clethra alnifolia)	Produces white flowers in mid-summer that attract tons of pollinators! It has attractive, dark green foliage and will get to be about 6' tall and wide, although dwarf varieties are available.
Winterberry (Ilex verticillata)	A deciduous holly. It will lose its leaves after they turn yellow in the fall, but the females (if they've been pollinated by a male) will retain tons of bright red berries well into the winter. There are varieties that will mature to different sizes.
Elderberry (Sambucus canadensis)	Produces white flowers in the summer that will turn into purple berries relished by birds. It will form a loose thicket, if allowed, around 10' tall. It is a favorite of many birds, for both the habitat and the food.
Shrubs (Hardy, Not Picky About Habitat Requirements)	
Beautyberry (Callicarpa americana)	A loose rounded shrub of about 5' in size. It has small pinkish berries for pollinators in summer, followed by bright magenta berries for the birds in the fall. In the driest part of the summer, it would appreciate a bit of a drink.
Indigo bush (Amorpha fruticosa)	A loosely branching shrub that produces spikes of purple flowers tinged with bright orange pollen which the bees love. It may get to be about 8-10' tall, and will form a loose colony if allowed.
Inkberry holly (Ilex glabra)	A compact evergreen shrub with small, dark green leaves. As with all hollies, each individual plant is either male or female. Females will produce black berries, but only if there is a male around to pollinate them. It will get to be about 5' tall. In a dry summer, it would appreciate a bit of a drink.
Perennials (Best for Moist Shady Areas)	
Foamflower (Tiarella cordifolia)	Gets to be about 6-8" tall and sends up stalks of white flowers another foot or so in the spring.
Bleeding hearts (Dicentra eximia)	Has delicate, dark, evergreen leaves and produces cute little heart-shaped, pink flowers in the spring. May not be liked by raccoons.
Virginia bluebells (Mertensia virginica)	Come up in the spring with large, lettuce-like leaves and produce beautiful curved stalks of bell-shaped flowers that range from pink to blue to purple. A wonderful spring wildflower for moist areas.
Perennials (Best for Dry Shady Areas)	
Christmas fern (Polystichum acrostichoides)	Evergreen and thrives on neglect in dry, shady places.
White wood aster (Eurybia divaricata)	Gets to be about a foot tall and produces white flowers from mid-summer to early fall. It tends to spread a bit.
Common blue violet (Viola sororia)	Sprouts up all over in the dry shady areas of my yard. It is most welcome. Deer and rabbits love it, and it may distract them from some other plants, like phlox. The leaves and flowers are also edible to people; you could add them to your salads!
Green-and-gold (Chrysogonum virginianum)	Has dark, evergreen leaves and makes a nice groundcover. It produces large, bright yellow flowers in the spring and is very drought-tolerant.
Little brown jugs (Hexastylis arifolia)	The name refers to the small jug-shaped flowers of this low-growing evergreen plant. You will only see them if you look under the leaves, but they provide nectar and pollen to beetles and other leaf-litter-inhabiting creatures.
Perrenials (Best for Dry Sunny Areas)	
Aromatic aster	Puts on a fantastic show with its purple daisy-like flowers in the fall. It will form a mound 1-2' high and 2-3' in diameter, attracting many butterflies.

Table A-4: Preferred Native Plan Species

Plant Name	Plant Description/Information
(Symphyotrichum oblongifolium)	
Butterfly weed (Asclepias tuberosa)	Produces orange flowers in the spring and summer that attract numerous pollinators. It is usually 2-3' tall, dying back to the ground in the winter.
Lance-leaved tickseed (Coreopsis lanceolata) and Thread-leaved coreopsis (Coreopsis verticillata)	Both are available as various cultivars and varieties. They may bloom from late spring through the summer and into the fall, providing pollen and nectar for pollinators. The seeds are then eaten by birds.
Coneflowers (Echinacea and Rudbeckia spp.)	Are now available as numerous cultivars and varieties, offering many different colors and sizes. Pollinators tend to prefer the more "traditional" flower colors. The seeds will be eaten by many birds.
Creeping phlox (Phlox subulata)	A low-growing, slowly spreading, evergreen plant, There are many different cultivars available producing early spring flowers in white or various shades of pink and purple. Some may bloom again in the fall.
Goldenrods (Solidago spp.)	Produce long plumes of numerous, tiny yellow blossoms in late summer and fall, offering late-season nectar and pollen, and then the seeds are eaten by small birds all winter. These plants may get to be as tall as 8', but there are some dwarf varieties available too.
Perennials (Best for Moist Sunny Areas)	
Cardinal flower (Lobelia cardinalis)	An attractor of hummingbirds and butterflies. It reaches 2-3' tall and produces stalks of bright red flowers from summer into the fall.
Mistflower (Conoclinium coelestinum)	Gets to be 2-3' tall and produces wonderful clouds of small, lavendar flowers in the fall.
Swamp sunflower (Helianthus angustifolius)	Waits until the very end of the season to produce its bright yellow flowers. By this time, it could be as tall as 8'. It does tend to spread, but you can easily pull it out if it spreads outside its allowed area.
Red mallow (Hibiscus coccineus)	Produces bright red flowers as large as your hand in the summer atop stems that might get to be 5' tall.
Perennials (Not Picky About Location)	
Blue-eyed grass (Sisyrinchium angustifolium)	Is actually a small iris. The thin, stiff leaves might get to be 6-8" tall. Small, light blue flowers with yellow centers are produced in the spring.
Columbine (Aquilegia canadensis)	Does well in sun or shade. Its bluish leaves have a delicate appearance and are frequently "decorated" by leaf miners. This plant produces dangling red and yellow flowers loved by hummingbirds, and many people! There are many funky and foreign cultivars of columbine that are not appealing to pollinators, so try to stick with the straight, native species.
Indian pink (Spigella marylandica)	Gets about 2' tall in the spring and produces columnar red flowers with yellow insides that are attractive to hummingbirds.
Joe-Pye weed (Eupatoriadelphus macalatus)	Its relatives may range from 2-6' tall before producing large clusters of lavendar flowers in late summer.
Native Grasses and Sedges (Tall – 3' or Taller)	
Switchgrass (Panicum virgatum) and Indian grass	put on quite a show in late summer and fall with their very different types of flowering stalks. Let them stand all winter as natural bird feeders.

Table A-4: Preferred Native Plan Species

Plant Name	Plant Description/Information
(Sorghastrum nutans)	
Native Grasses and Sedges (Medium Height – 2' to 4' Tall)	
Wild oats (Chasmanthium latifolium or Uniola latifolia)	Grow well in the shade and have attractive, dangling flower/seedheads that persist into winter.
Splitbeard bluestem (Andropogon ternarius) and Little bluestem (Schizachyrium scoparius)	Like dry, sunny places. They both have leaves that are light bluish-green, and turn gentle shades of lavendar, blue, and pink in the fall. The flowers and seedheads of splitbeard bluestem are fuzzy, adding extra interest to the winter garden.
Muhly grass (Muhlengerbia capillaris)	Needs lots of sun and will be happier if it is not in bone-dry clay soil. When in the right spot, it produces amazing clouds of purplish flowering stalks in late summer/fall.
Native Grasses and Sedges (Short Height – Less than 1' Tall)	
Purple lovegrass (Eragrostis spectablis)	Produces fine, lacey displays of tiny flowers and seeds in late summer/fall. It does well in dry, sunny areas.
Carex laxiculmis	Has somewhat floppy, bluish leaves that remain all winter. It likes part-shade to shady areas.
Carex plantaginea	Has somewhat stiffer, medium green leaves that remain all winter. It likes part-shade to shady areas.
Flowering Vines (Can be Used to Screen Walls or Other Structures)	
Carolina jessamine (Gelsemium sempervirens)	Is evergreen and produces large, tubular, yellow flowers from late winter into spring, serving as an important food source for pollinators emerging from winter hibernation. It may bloom again in the fall.
Crossvine (Bignonia capreolata)	Produces large, tubular, red flowers from late winter into spring, serving as an important food source for hummingbirds as they migrate north for the summer. It will produce more flowers if it gets more sun, but does fine in the shade, as well. This plant is evergreen, though its leaves typically take on a reddish hue during the winter.
Trumpet honeysuckle (Lonicera sempervirens)	Produces flowers unlike those of non- native, invasive honeysuckles. These are slender, red tubes that are popular among many pollinators, including hummingbirds. It is mostly evergreen, maybe losing some of its leaves in very cold weather. It produces flowers continuously from spring through fall.

Section 5: Commonly-Use Invasive Plants and Native Substitutes

Table A-5 below, identifies invasive plants commonly used that are damaging to the environment and native plants that are excellent alternatives to give back to the environment.

Table A-5: Native Plan Alternatives to Commonly-Use Invasive Plant Species

Commonly-Used Invasive Species	Recommended Alternative Native Plant Species
Grasses and Grass-Like Plants	
Bamboo (Bambusa species)	Blue-eyed grass (Sisyrinchium angustifolium)

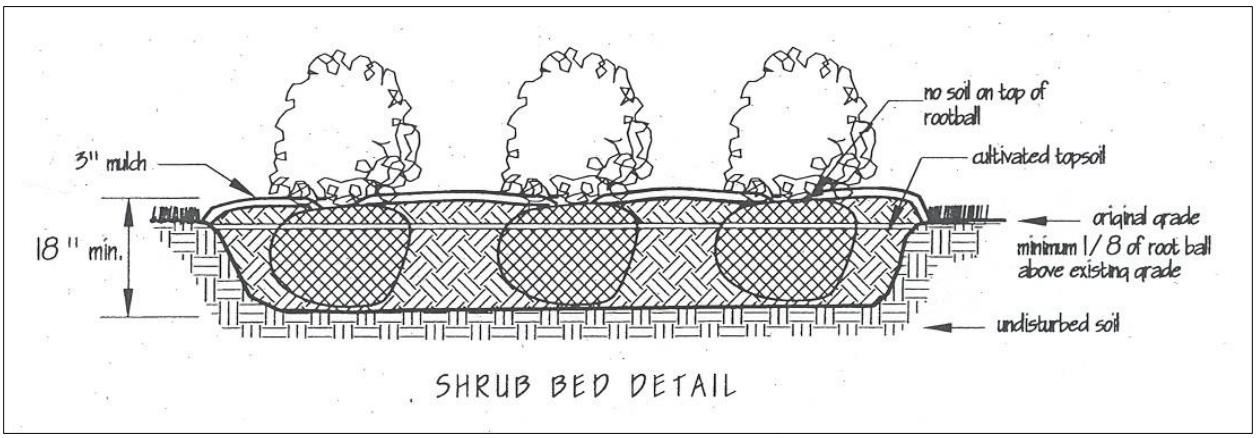
Table A-5: Native Plan Alternatives to Commonly-Use Invasive Plant Species

Commonly-Used Invasive Species	Recommended Alternative Native Plant Species
Chinese silvergrass (Miscanthus sinensis)	Indian grass (Sorghastrum nutans)
Common reedgrass (Phragmites australis)	Oak sedge (Carex pennsylvanicus)
Maidengrass (Miscanthus sinensis)	Purple top (Tridens flavus)
Monkey grass (Liriope species)	Splitbeard bluestem (Andropogon ternarius)
Running bamboo (Phyllostachys species)	Spreading sedge (Carex laxiculmis)
Zebra grass (Miscanthus sinensis)	Switchgrass (Panicum species)
Trees	
Bradford pear (Pyrus calleryana)	Any oak (Quercus species)
Empress tree (Paulownia tomentosa)	Black cherry (Prunus serotina)
Mimosa (Albizia julibrissin)	Dogwood (Cornus florida)
Tree of heaven (Ailanthus altissima)	Redbud (Cercis canadensis)
Shrubs	
Autumn olive (Eleagnus species)	Beautyberry (Callicarpa americana)
Butterfly bush (Buddleja davidii)	Dwarf palmetto (Sabal minor)
Chinese privet (Ligustrum species)	Florida anise (Illicium floridanum)
Chinese holly and its many cultivars such as 'Burford' and 'Nellie Stevens' (Ilex cornuta x.)	Golden St. John's wort (Hypericum frondosum)
Japanese barberry (Berberis thunbergii)	Inkberry holly (Ilex glabra)
Japanese holly and its many cultivars (Ilex crenata x.)	Leucothoe (Agarista populifolia)
Japanese privet (Ligustrum species)	Oak-leaf hydrangea (Hydrangea quercifolia)
Largeleaf lantana (Lantana camara)	Staghorn sumac (Rhus typhina)
Leatherleaf (Mahonia bealii)	Summersweet (Clethra alnifolia)
Russian olive (Eleagnus species)	Sweetspire (Itea virginica)
Sacred bamboo (Nandina domestica)	Viburnum (many species)
	Wax myrtle (Myrica cerifera, Morella cerifera)
	Winterberry (Ilex verticillata)
	Yaupon holly (Ilex vomitoria)
Vines	
Chinese wisteria (Wisteria sinensis)	American wisteria (Wisteria fructescens)
Creeping wintercreeper (Euonymus fortunei)	Carolina jessamine (Gelsemium sempervirens)
English ivy (Hedera helix)	Climbing aster (Ampelaster carolinianus)
Japanese wisteria (Wisteria floribunda)	Crossvine (Bignonia capreolata)
Periwinkle (Vinca major, Vinca minor)	Maypops (Passiflora incarnata)
Porcelainberry (Ampelopsis brevipedunculata)	Trumpet honeysuckle (Lonicera sempervirens)
Perennials	
Butterfly bush (Buddleja davidii)	Alumroot (Heuchera americana)
Chameleon plant (Houttunya cordata)	Bleeding heart (Dicentra canadensis or eximia)
Lambsquarters (Chenopodium album)	Eastern columbine (Aquilegia canadensis)
Largeleaf lantana (Lantana camara)	Fire pink (Silene virginica)
Mountain bluet (Centaurea montana)	Foamflower (Tiarella cordifolia)
Asiatic dayflower (Commelina communis)	Green-and-gold (Chrysogonum virginianum)
Oxeye daisy (Leucanthemum vulgare)	Phlox (many species)
Yellow archangel (Lamium maculatum or Lamiastrum)	Tickseed (many species of Coreopsis)
	Wild geranium (Geranium maculata)

Section 6: Plant Pit, Hedge Trench, and Shrub Bed Preparation

Preparation of plant pits, hedge trenches and shrub beds shall be done in conformance with Leaflet No: 601, Planting Techniques for Trees and Shrubs, North Carolina Cooperative Extension Service, (1997), and the following procedures (see illustration below):

- Excavate pits with vertical sides approximately the depth of the rootball and with a circular outline which shall be approximately 2 to 3 times wider than the rootball. For planting pits, beds or trenches which are to be developed where paving existed previously, all paving and base stone shall be removed as part of the excavation.
- Remove rock, debris, inorganic compositions and chemical residues from soil in planting pits.
- Cultivate shrub planting pits to a minimum depth of 18 inches. Ground cover and vine planting pits shall be cultivated to a minimum depth of 12 inches.
- Install root ball on a flat, compact surface of undisturbed soil and remove any inorganic ties on top of the rootball. Remove the top 1/3 of wire baskets.
- Leave the top of the tree root ball exposed, to be covered by mulch only.
- Finish the planting with a minimum 3-inch layer of mulch of pine needles, tree bark or similar materials distributed around the tree trunk.
- Prepare soil, plant, fertilize, mulch, and control insects and disease in conformance with the North Carolina Cooperative Extension Service, Landscape Management Calendar, which is incorporated by reference hereto.
- Re-establish native plants salvaged from the site or relocated as a result of grading in conformance with the recommendations of the North Carolina Cooperative Extension Service.
- Support trees and shrubs adequately when planted in order to avoid interference with their typical growing patterns.



APPENDIX B: LEGACY ZONING DISTRICTS

Campus Development (CD) District

Purpose

The CD district is established to provide for a high-quality mixture of employment and/or institutional uses of varying types in a single coordinated development. The district may include light manufacturing, office, warehousing, distribution, institutional and limited retail and service uses in an attractive campus or corporate park setting with architectural design standards, landscaping, screening and buffering. It is not intended that this district be used to accommodate single-use, single building developments which can be located in other zoning classifications. Development within the district shall conform to specific supplemental design standards of Article 11. Further, the district provides significant flexibility in internal arrangement of uses while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. The district is intended for application in select areas of the City primarily for new development on previously undeveloped land. However, the district may also be applied to areas which are appropriate for redevelopment or conversion where it is apparent that all of the development standards may be fulfilled.

Intensity and Dimensional Standards

Minimum Area of Site Plan or Subdivision

Within the CD district, the minimum area for a subdivision or site plan is 20 contiguous acres, except a subdivision or site plan may be approved for a parcel of land that is less than 20 contiguous acres either 1) subject to approval of a special use permit for the proposed development if the parcel is at least one acre in area and was a lot of record on July 1, 2022, or 2) if the parcel was rendered less than 20 acres in area due solely to purchase of part of the land by a government agency (e.g., for a new road or road expansion).

Lot Standards

a) The maximum ratio of impervious surface to undeveloped/pervious surface is 0.8.

b) The minimum public street frontage is 30 feet.

c) The minimum lot width is 100 feet, except there is no minimum lot width for the following: 1) multifamily and attached residential dwellings, and 2) lots created for government infrastructure and services.

d) The minimum lot depth is 100 feet.

Building Standards

a) The maximum building height is 72 feet, except for government infrastructure and services uses.

b) The minimum front setback is 30 feet. There are no minimum side or rear setbacks.

c) The minimum separation between buildings is 20 feet, plus one foot for each one foot of building height in excess of 30 feet.

Density

There is no maximum density in the CD district.

Use Standards

Uses are allowed in the CD district in accordance with Article 4: Use Regulations, and the following standards.

Utilities and Government Functions

a) Utilities substations other than individual transformers shall be screened in accordance with Section 5.3: Landscaping and Buffer Standards.

b) Structures and uses required for operation of a public utility or performance of a governmental function are permitted, provided no uses involving extensive storage, or with storage as the principal purpose shall be permitted.

Commercial Uses

Commercial uses shall comply with the following requirements:

a) No retail or commercial service use or establishment may exceed (or occupy) more than 70,000 square feet of gross leasable floor area. Exceptions may be made for developments located within one mile of Interstate 85, whereas up to two retail or commercial uses or establishments may occupy up to 200,000 square feet of gross leasable floor area.

b) No more than 30 percent of any property or group of properties may be used for retail or commercial service uses or establishments.

c) Automobile and truck repair and related manufacturing establishments shall be limited exclusively to such activities related to professional auto racing.

Restaurants with Drive-Through Service

Restaurants with drive-through service shall be permitted as a special use in the CD zoning district. The special use permit will be reviewed by the Board of Adjustment and meet the requirements of Section 2.5.A(5): Special Use Permit, for approval. Additionally, all of the following findings must be made:

a) The project site includes provisions for pedestrians in accordance with the access and circulation standards in this section, such as outdoor seating areas including benches and/or tables. On-site pedestrian connections are made via sidewalk to the adjacent streets or greenways.

b) Drive-thru service is not the primary function of the restaurant, but instead secondary to the business. Indoor service and seating provided.

c) Drive-through service windows and stacking lanes are discouraged in the established front yard of the principle building, or in an established side yard if it abuts a public street. In circumstances such as corner lots where such requirements are determined as not feasible or impractical, the applicant must provide evidence that there are no other feasible alternatives to locating the drive-through window or stacking lanes, as applicable, in the front or side yards.

Bona Fide Farms

Existing bona fide farms or agri-businesses in the CD zoning district may be operated on property so designated by Cabarrus County or Rowan County as of the time of the effective date of this ordinance. Such farms or agri-businesses may continue in their current state and with their existing level of activity. Such farms or agri-businesses shall be permitted to expand to the maximum extent permitted under the requirements of this district on the same property or adjacent property (also having the bona fide farm designations). New or expanded agri-business operations on property not having a bona fide farm designation shall not be permitted. Agri-business operations include agricultural products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals; medical and/or technical support services; and similar activities. Bona-fide farms which cease to qualify as such may return to active farming and may continue as farms as if they had never ceased operating. However, once a bona fide farm ceases to qualify as such, and the property is developed for other non-farm uses permitted in the CD District, it may not be re-established as a bona fide farm.

Open Space

Common, accessible open space shall be required for all CD district sites, whether subdivided, or not. The open space shall be pedestrian oriented and include such amenities as park benches, walking trails and gazebos. Parking or vehicular access within these areas shall be prohibited. The open space must comprise at least eight percent of the gross project area which may include buffer requirements. No additional open space shall be required for individual building sites within a Campus Development project other than the required buffers and setbacks.

Access and Circulation

Site Access

All CD projects shall have access to at least one major or minor thoroughfare or connection to an existing approved site having such access where Site Plan and/or Subdivision approval has been previously granted.

Interior Streets and Alleys

a) Sites in CD Districts may be divided by streets, alleys, rights-of-way, or easements, but shall be so located and arranged as to permit a unified design for the overall development.

b) All new interior streets shall be built in conformance with the standards in this Ordinance. Where practical, all such roads shall be designed to ultimately connect to adjacent, undeveloped property that is also zoned CD to allow for a connected, continuous street system when the adjacent property develops.

c) All building sites and/or buildings within any Campus Development project classified in the Business Services or Retail Sales and Services use category (see Article 4: Use Regulations) shall be accessed on interior streets, not on thoroughfares or collectors. All other permitted uses within any Campus Development Project may have access on interior streets, thoroughfares or collectors.

Pedestrian Facilities

In general, the plan shall provide a unified and well organized arrangement of buildings, service areas, parking, pedestrian, and landscaped common areas providing for maximum comfort and convenience of visitors and employees with a minimum of conflicts with vehicles. More specifically, the following pedestrian design requirements shall apply to all development in the CD District:

a) Minimum five-foot-wide sidewalks shall be included on both sides of all new interior access streets and parking area designs. Sidewalks may be constructed at the time of development or may be phased in over a period of several years as portions of a project are developed.

b) All buildings or building clusters within the development shall be connected with linkages other than roads (sidewalks, bikeways and walking paths). Unless topographic or other physical constraints exist, these linkages shall be provided between adjacent sites whether developed or undeveloped. Pedestrian access may be provided at any suitable locations within the district, but shall, where practicable, be separated from vehicular access points in order to reduce congestion, marginal friction, and hazards, except where signalization is used in such a manner as to control pedestrian and vehicular movements safely.

c) Individual building sites within CD developments shall include provisions for pedestrian-scale amenities such as benches, picnic tables, courtyards, plazas, water attractions and trash receptacles. These enhancements are essential to creating an efficient and functional environment as well as promoting a "sense of place." Such area(s) may include covered malls for general pedestrian use, exterior walkways, outdoor seating areas, and the like where the facilities are available for common use by employees and visitors. Required open space, buffer areas and setback yards as well as improved deck, patio and roof areas may be used to meet this requirement.

d) Paving materials in pedestrian areas (including crosswalks and sidewalks) shall only include brick, concrete (aggregate exposed finish), concrete pavers, brick pavers and similar materials

Loading and Maintenance Areas

Loading and maintenance areas shall be so located and arranged as to prevent interference with pedestrian movement within the site. All loading shall be from the rear or side of the building, but not facing a public street.

Landscaping, Buffering, and Screening

Developments in the CD district shall comply with Section 5.3, Landscaping and Buffer Standards, and the following requirements:

a) All CD projects must provide for the installation of a median-type entranceway for all entrances on major or minor thoroughfares. The median shall be grassed and suitably landscaped and conform to the standards in this Ordinance.

b) Developments shall utilize existing topography such as hills, ridges and berms to screen parking and maintenance areas to the maximum extent possible.

c) Developments with outdoor storage, as permitted in Article 4: Use Regulations, shall comply with the standards in Section 4.3.D(17), Outdoor Storage.

Utilities

Architectural Standards

These criteria are not intended to restrict imagination, innovation or variety, but rather to help focus on design principles that will result in creative and cohesive approaches to architecture and building design.

General

a) Building designs in the CD District shall promote a diversity in style while striving to define a distinct character and maintain a high quality development standard. New buildings shall be built sensitive to the scale, form and proportion of other buildings in the same project. A human scale shall be achieved at entrances to all buildings through the creative use of windows, doors, canopies and columns. In the application of provisions of this Section, the Administrator may require the submittal of photographs and/or architectural renderings. If several entrances are located in one building, similar treatment of each entrance, materials and windows should be provided.

b) The use of unusual shapes, colors or other characteristics that would cause a building to create aesthetically unpleasant visual disharmony with other buildings in a CD district development, shall be avoided.

Unifying Elements

Buildings shall include similar architectural styles but should not be identical throughout the development. All sides of an individual building shall be treated in an architecturally similar manner. More specifically, at least two of the following three "unifying elements" must be presented in each building (including accessory buildings and those buildings located on outparcels) and to the greatest extent practical, in other architectural features of the development (walls, fences, signs, etc.):

a) Building Materials. If selected, the dominant material (and its color) must be stated in writing with the Site Plan submittal. Such materials shall apply to at least 30 percent of each ground mounted sign as well.

b) Colors. If selected, the dominant color or pattern of colors must be stated in writing with the Site Plan submittal. A maximum of three colors may be designated as the unifying element but the maximum number of colors throughout the development are not limited.

c) Architectural Features. If selected, the dominant architectural feature(s) must be stated in writing with the Site Plan submittal. These features include but are not limited to: roof treatment (style, color and material), façade treatments or building form (overhangs, canopies, arcades, protected walkways, entrance treatments).

Building Materials

a) Building materials shall be of a high quality. No building elevation may be covered (exposed) with sheet or corrugated aluminum, iron or steel, plain concrete, plain concrete block, exterior panelized plywood, including foundation materials. Except, however, such materials may be used as secondary exterior finish materials if they cover no more than 10 percent of the surface area. The buildings may consist of any of the following materials: utility brick, standard brick, stucco, synthetic stucco, colored split-faced block, glass, stone, tile or other similar high quality materials. Buildings designed for planned expansion may use architectural metal panels on the wall(s) to be removed for expansion of the building. Awnings should be constructed of canvas or a similar material.

b) Where there is an exterior alteration to an existing building, the exterior finish materials on the portion of the building being altered or added must visually match the appearance of those on the existing building. In such cases, the requirements of § 11.6.5.3 shall not apply. However, if the exterior finishes and materials on the existing building do not meet the above standards, any material that meets the above standards may be used.

Building Façade Design

To avoid the visual monotony created by large, blank building elevations, the elevation must be separated by a projection or structural relief such as:

a) Constructing a porch with a roof,

b) Incorporating fascias, canopies, arcades, or other multidimensional design features to break up large wall surfaces on their street facing elevations,

c) Setting part of the facade back at least three feet from the rest of the façade

d) Creating a visually distinct ground floor,

e) Providing for changes in material or texture,

f) Installing a row of windows on the building's street facing elevation.

Roof-Mounted Equipment

All roof-mounted equipment, including HVAC systems, satellite dishes and other communication equipment, must be screened from adjacent street or parking area views in one of the following ways (solar heating panels are exempt from this standard):

a) A parapet as tall as the tallest part of the equipment;

b) A screen around the equipment that is as tall as the tallest part of the equipment; or

c) The equipment is set back from the street-facing perimeters of the building three feet for each foot of height of the equipment.

Campus Development Residential (CD-R) District

Purpose

The CD-R District is established to provide small areas within existing CD Developments for high density residential. The district allows compact residential development consisting of condos, townhouses, and apartments, with a maximum of twenty-two (22) dwelling units per acre where adequate public facilities and services are available, except as otherwise provided in this Ordinance. Development within the district shall

conform to the specific design controls required for multi-family and/or single-family attached projects set forth in Article 11.2. The CD-R District shall not be approved unless the lot, parcel, or tract subject to the application adjoins an existing CD Campus Development zoning district and is coordinated with the adjacent CD project.

Intensity and Dimensional Standards

Minimum Area of Site Plan or Subdivision

a) Within the CD-R district, the minimum area for a subdivision or site plan is 15 contiguous acres.

b) The total acreage of the CD-R development shall not exceed 20 percent of the acreage of the accompanying CD Development.

Lot Standards

The maximum ratio of impervious surface to undeveloped/pervious surface is 0.8.

Building Standards

Multifamily, townhouse, and attached single family development shall comply with the following standards:

a) The minimum lot size is 6,000 square feet.

b) The maximum density is 15 units per acre.

c) The maximum impervious surface ratio is 0.5.

d) The minimum public street frontage is 15.

e) The minimum lot width is 60 feet.

f) The minimum lot depth is 100 feet.

g) The maximum building height is 35 feet.

h) The minimum spacing between buildings is 20 feet, plus one foot for each one foot of building height in excess of 30 feet.

Density

The maximum density allowed is 22 dwelling units per acre, except a lower maximum density shall apply if adequate facilities and services are not available to support a density of 22 dwelling units per acre.

Use Standards

Uses are allowed in the CD district in accordance with Article 4: Use Regulations, and the following standards.

All Residential Uses

Residential development must accompany an approved CD development which is at least 60 acres or greater.

Multifamily and Townhouse Dwellings

All multifamily and townhouse dwellings within the CD-R District shall be designed with at least 40 percent of the overall façade consisting of masonry components.

Utilities

Utilities substations other than individual transformers shall be screened in accordance with Section 5.3: Landscaping and Buffer Standards.

Location

All CD-R projects must be centrally located within a CD development and within one-half mile of Interstate 85.

Design Standards

a) CD-R projects must be designed and arranged such that they complement the overall CD project.

Light Commercial (C-1) District

Purpose

The C-1 district is established to provide areas for indoor retail, service and office uses. The purpose of the C-1 district is to accommodate well-designed development sites that provide excellent transportation access, make the most efficient use of existing infrastructure and provide for an orderly transition between uses. C-1 Zones should be located in areas which continue the orderly development and concentration of moderate commercial uses. C-1 zones should be located on or within proximity to major and/or minor thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

Intensity and Dimensional Standards

Lot Standards

The maximum ratio of impervious surface to undeveloped/pervious surface is 0.7.

Building Standards

a) The maximum building height is 48 feet, except for government infrastructure and services uses.

b) The minimum front setback is 10 feet. There are no minimum side or rear setbacks.

Use Standards

Uses are allowed in the C-1 district in accordance with Article 4: Use Regulations.